

2013

Session Summaries

These session summaries provide a review of the changes made by the 2013 Minnesota Legislature that affect low-income Minnesotans.

The summaries cover changes to Minnesota law in a variety of substantive areas, including Administrative Law, Asset Building, Consumer Law, Courts/Civil Procedure/Civil Liability, Data Practices, Disability Law, Domestic Abuse, Employment Law, Family Law, Guardianship and Conservatorship, Health Law, Housing/Real Property Law, Human Rights Law, Juvenile Law, Landlord-Tenant Law, Public Benefits Law, Tax Law, Unemployment Insurance Law and Vulnerable Adults.

ADMINISTRATIVE LAW

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I. DEPARTMENT OF HUMAN SERVICES (DHS) FAIR HEARINGS

Chapter 107, Article 1 (HF 975)

Amends Minn. Stat. §§ 256.045, subds. 1, 3, 4, and 5; and 256.0451, subds. 5, 13, 22, and 24

Various Effective Dates

A. Judges

1. Qualifications

Clarifies that DHS judges must be Minnesota licensed attorneys.

Amends Minn. Stat. § 256.045, subd. 1

Effective July 1, 2013

2. Title

Instructs the Revisor to substitute throughout Minnesota Statute the title Human Services Judge for the titles: (1) Appeals Examiner; (2) Human Services Referee; and (3) Referee.

Uncodified Section

B. Pre-Hearing Conferences

Allows DHS judges to make and issue rulings while an appeal is pending, subject to reconsideration or appeal as part of the final decision.

Amends Minn. Stat. § 256.0451, subd. 5

Effective August 1, 2013

C. Hearings

1. By Video Technology

Allows a DHS judge to hold hearings by interactive video technology, but requires an in-person hearing if the appellant or a witness has a condition that substantially impairs the person's ability to participate using the technology.

Amends Minn. Stat. § 256.045, subd. 4

Effective August 1, 2013

2. Failure to Appear

Allows an individual whose appeal was dismissed for failure to appear to show good cause for the failure appear by submitting written information within 10 working days of the dismissal.

Amends Minn. Stat. § 256.0451, subd. 13

Effective August 1, 2013

D. Reconsiderations

Places the burden on the aggrieved party to show why a matter should be reconsidered. Allows submission of supporting evidence, but requires explanation as to why additional evidence was not presented at the initial hearing. Requires, upon grant of the reconsideration, other parties to be given: (1) all materials submitted to support reconsideration; and (2) 10 days to respond.

Amends Minn. Stat. § 256.045, subd. 5

Effective August 1, 2013

E. Appeals

Clarifies that appeal requests must be filed within 30 days of receipt of written notice of an agency action. Allows an extension to 90 days with good cause, but places burden on the individual to make a showing. Requires suspension of the fair hearing in cases involving child or vulnerable adult maltreatment if a district court case is pending.

Amends Minn. Stat. § 256.045, subd. 3

Effective August 1, 2013

F. Maltreatment and Disqualification Cases

Provides that the 90-day period for issuing a final ruling does not begin in maltreatment and disqualification cases until the later of the date: (1) the licensing authority has provided written notice of a final determination; or (2) the appellant files the last appeal in consolidated matters.

Amends Minn. Stat. § 256.0451, subd. 22

Effective August 1, 2013

II. SERVICE OF PETITION FOR JUDICIAL REVIEW OF CONTESTED CASE DECISION

Chapter 56 (HF 1120)

Amends Minn. Stat. § 14.63

Effective August 1, 2013, and applies to an appeal of a final decision in a contested case rendered on or after that date. Requires a petition for a writ of certiorari for judicial review of a contested case decision to be served all parties to the contested case.

Note: Under current law, service was required only on the agency.

ASSET BUILDING

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I. FAMILY ASSETS FOR INDEPENDENCE IN MINNESOTA (FAIM) PROGRAM

Chapter 108, Article 14, Section 2, Subdivision 6(g) (HF 1233)

Uncodified Section

Effective July 1, 2013

Appropriates \$500,000 for the biennium to the Department of Human Services (DHS) to fund the FAIM Program.

Note: FAIM is a matched savings program designed to help Minnesota's low-wage earners build assets through: (1) purchasing a home; (2) pursuing higher education; or (3) launching a small business.

II. INCOME AND ASSET EXCLUSION FOR DEMONSTRATION PROJECT

Chapter 108, Article 3, Section 44 (HF 1233)

Uncodified Section

Effective August 1, 2013

Note: This section is directed at the so-called the Family Independence Demonstration Program, a Citizens League initiative in the design phase, that seeks to incent through modest stipends to participants low-income families to save for self-directed goals that build personal and financial assets.

A. Absolute Exclusions

1. Department of Human Services (DHS) Programs

Directs DHS to exclude conditional cash transfers made to families participating in a family independence demonstration when determining or redetermining eligibility for: (1) the Child Care Assistance Program; (2) General Assistance; (3) Group Residential Housing; (4) the Minnesota Family Investment Program; (5) the Work Benefit Program; and (6) the Diversionary Work Program.

2. Minnesota Housing Finance Agency (MHFA) Program

Directs MHFA to exclude conditional cash transfers made to families participating in a family independence demonstration when determining or redetermining eligibility for rental assistance.

B. Qualified Exclusion

Directs DHS to exclude these cash transfers for determining or redetermining eligibility for Medical Assistance or MinnesotaCare, except for enrollees subject to a modified adjusted gross income calculation to determine eligibility, in which case the payments are as income if: (1) they are included on the enrollee's federal tax return as income; or (2) the payments can be taken into account in the month of receipt as a lump sum payment.

CHILD CARE

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Acronyms Used in this Section

BSF = Basic Sliding Fee

CCAP = Child Care Assistance Program

DHS = Minnesota Department of Human Services

FPG = Federal Poverty Guidelines

MFIP = Minnesota Family Investment Program

I. CHILD CARE ASSISTANCE PROGRAM (CCAP)

A. Absent Day Payments

Chapter 108, Article 3, Section 12 (HF 1233)

Amends Minn. Stat. §119B.13, subd. 7

Effective February 1, 2014

1. Restoration of Payments and Limitations

Restores CCAP payments for a child attending a licensed provider or licensed-exempt center if a child: (1) has missed up to 25 full days of child care; or (2) misses up to 10 consecutive full days. Provides that the increased absent days do not apply to legal nonlicensed providers.

2. Exemption

Allows an exemption for a child who exceeds the number of absent days permitted because of a documented medical condition of: (1) the child; or (2) a parent or sibling residing in the same household. Qualifies the following persons to verify the illness: (1) a medical practitioner; (2) a public health or school nurse; or (3) a lead teacher or center director, if the child is sent home due to medical illness. Directs DHS to establish forms and timelines.

B. Eligibility

1. Of Child of Center Employee/Provider

Chapter 108, Article 3, Section 43 (HF 1233)

Amends Laws 2011, First Special Session, Chapter 9, Article 1, Section 3

Effective July 1, 2014

Delays the January 1, 2013 effective date of 2011 changes that prohibited child care assistance payments if a child was related to a child care center employee or provider, unless at least 50% of children enrolled in the center received child care assistance. Makes change retroactive to January 1, 2013, when the 2011 law technically took effect.

2. Redeterminations

Chapter 108, Article 3, Section 3 (HF 1233)

Amends Minn. Stat. § 119B.025, subd. 1

Effective August 4, 2014

Provides that a family completing a redetermination form and all required authorizations within 30 days of when they were due, the family will: (1) be considered to have met the redetermination requirement; and (2) will receive CCAP payments retroactively to the original due date.

Note: *The family must remain otherwise eligible for CCAP.*

C. Fraud Disqualifications

Chapter 108, Article 3, Section 23 (HF 1233)

Amends Minn. Stat. § 256.98, subd. 8

Effective February 3, 2014

Aligns family disqualification for child care assistance fraud with other public benefits programs, making disqualification periods for the family if one member commits fraud: (1) one year for the first offense; (2) two years for the second offense; and (3) permanent disqualification for the third offense.

Note: *What constitutes fraud and the definition of "family member" are not changed from existing law.*

D. Student Parents

Chapter 108, Article 3, Sections 1, 4, and 5 (HF 1233)

Amends Minn. Stat. §§ 119B.03, subd. 4; and 119B.05, subd. 1

Adds Minn. Stat. § 119B.011, subd. 19b

Effective November 11, 2013

Note: *These changes as a whole will result in allowing student parents to: (1) move into the first priority on the BSF waiting list; and (2) become eligible for MFIP child care until BSF funds are available to move them from the waiting list as a first priority case.*

1. Definition of "Student Parent"

Defines "student parent" as a person who is: (1) under age 21; (2) pursuing a high school diploma or GED; (3) residing in a county with a BSF waiting list; and (4) not an MFIP participant.

2. BSF Priority for Student Parents

Expands the first priority on the BSF waiting list to include student parents.

3. MFIP Child Care Eligibility

Makes student parents eligible for MFIP child care (which has no waiting list) if there is a BSF waiting list in the student parent's county of residence.

II. EARLY EDUCATION/PRESCHOOL SCHOLARSHIPS

Chapter 116, Article 8, Section 2 (HF 630)

Adds Minn. Stat. § 124D.165

Effective July 1, 2013

Note: Scholarships applications likely available Fall 2013

Creates an early learning scholarship for: (1) low-income children ages 3 - 5; and (2) their siblings in the same program, provided they are not already in kindergarten.

Note: *This program is intended to provide funding in addition to, and not in place of, CCAP funds.*

A. Eligibility

Makes a parent or guardian eligible who: (1) has a child at least age 3 as of September 1 who has not yet started kindergarten; or (2) is parent under age 21, who has children age 5 or younger, and is pursuing a high school or GED; and (3) meets the income eligibility criteria. Provides that a parent or guardian is eligible if s/he: (1) has income equal or less than 185% FPG; (2) can document placement in foster care under Minn. Stat. § 260C.212; or (3) can document

participation in: (i) free and reduced-price lunch program, or child and adult care food program; (ii) National School Lunch Act (See 42 U.S.C. §§ 1751 and 1766); (ii) Head Start; (ii) MFIP under Minnesota Statutes, Chapter 256J; (iii) Child Care Assistance under Minnesota Statutes, Chapter 119B; or (iv) Supplemental Nutrition Assistance Program (SNAP). Disregards scholarship funds as income for purposes of: (1) Medical Assistance under Minnesota Statutes, Chapter 256B; (2) MinnesotaCare under Minnesota Statutes, Chapter 256L; (3) MFIP under Minnesota Statutes Chapter 256J; and (4) Head Start or CCAP under Minnesota Statutes, Chapter 119B.

B. Administration

Places responsibility for administration with Department of Education.

C. Prioritization of Applications

Permits prioritization of scholarship applications by factors of: (1) income; (2) geographic location; (3) whether the family is on a waiting list for publically-funded child care (e.g., BSF) or early education programs (e.g. Head Start). Allows prioritization as well at programs: (1) with a 4-star Parent Aware rating; (2) that have waiting lists; and (3) that use scholarships to expand capacity.

D. Amount and Terms of Scholarship

Awards scholarships of up to \$5,000 per eligible child per year. Provides that the scholarship cancels and the parent must re-apply if a child has not been enrolled in a qualifying program within 10 months of receipt the scholarship. Requires children to complete a developmental screening within 90 days of attending an eligible program, unless a screening has already been completed. Makes scholarships available to siblings up to age 5 who are attending the same program if requested by the parent.

Note: The current appropriation will provide approximately 8,000 scholarships per year.

E. Eligible Programs

Programs must, to be eligible: (1) be participating in the Parent Aware rating system under Minn. Stat. § 124D.142; and (2) as of July 1, 2016, have a three- or four-star rating from Parent Aware. Provides that programs must use the scholarships in addition to, and not in place of, federal funding.

F. Evaluation

Requires the Department of Education to evaluate the scholarship program through a contract with an independent evaluator. Requires that the evaluation assess the: (1) per child award and recommend an appropriate amount; (2) efficiency and effectiveness of the scholarship administration; and (3) impact of the scholarship program on kindergarten readiness.

III. PROVIDER PAYMENTS

A. Higher CCAP Reimbursement Differential

Chapter 108, Article 3, Sections 8-10 (HF 1233)

Amends Minn. Stat. § 119B.13, subd. 3a

Adds Minn. Stat. § 119B.13, subds. 3b and 3c

Various Effective Dates

July 1, 2013 (Section 8 - Accreditation); March 3, 2014 (Section 9 - Parent Aware differential); and August 4, 2014 (Section 10 - Weekly rate differential)

1. Evaluation of Accreditations

Requires DHS to evaluate and expand accreditations accepted that will result in a 15% child care assistance reimbursement differential payment. Leaves intact the current statutory accreditations that merit an increased differential until the evaluation process is complete. Requires 90 days' advance notification to providers and parents if an accreditation is no longer approved.

Effective July 1, 2013

2. Parent Aware Differential

Establishes that a family child care provider or center will be paid the following parent aware differential payment increase: (1) 15% for a three-star rating from the Parent Aware rating system; and (2) 20% for a four-star rating from Parent Aware. Provides that the differential is in addition to the child care assistance maximum reimbursement rate, up to the provider's actual rate.

Effective March 3, 2014

3. Weekly Rate Differential

Permits payment of the maximum weekly rate (up to the provider's actual rate) to a licensed provider who or a licensed-exempt center: (1) that receives a higher differential reimbursement payment for a child up to age 5 (but not yet in kindergarten); and (2) where the applicant/parent's activities qualify under: (i) the BSF provisions (Minn. Stat. § 119B.03); MFIP Child Care (Minn. Stat. § 119.05); Employment/Training eligibility (Minn. Stat. § 119B.10); and CCAP payment rules (Minn. Rules, Chapter 3400).

Effective August 4, 2014

B. MARKET RATE/COUNTY PRICE CLUSTERS

Chapter 108, Article 3, Sections 2, 6 and 7 (HF 1233)

Amends Minn. Stat. § 119B.13, subds. 1 and 1a

Adds Minn. Stat. § 119B.02, subd. 7

Effective February 3, 2014

1. New Method to Determine Market Rate

Establishes a new county clustering method (replacing the current county-by-county method) to determine market rate provider payments. Directs DHS to cluster counties, grouping like-priced counties together. Gives DHS the flexibility to cluster counties so geographic proximity is not required.

2. Applicability

Applies the county price cluster reimbursement to: (1) licensed providers; (2) license-exempt centers; and (3) legal nonlicensed providers.

3. Maximum Market Rate

Establishes the maximum market rate, beginning in 2014, at the greater of: (1) the 25th percentile of the 2011 provider rate survey; or (2) the maximum rate as of November 28, 2011. Directs DHS, beginning in 2014, to biennially survey child care market rates to set the maximum reimbursement rate for each price cluster.

4. Maximum Registration Fees

Sets a ceiling of the maximum registration fee in effect as of January 1, 2013 remain in effect, regardless of the section of Minnesota Rules that ties registration rate reimbursement to market surveys (Minn. R. part 400.0130, subp. 7).

C. FRAUD

Chapter 108, Article 3, Section 11 (HF 1233)

Amends Minn. Stat. § 119B.11, subd. 6

Effective February 3, 2014

Permits counties to withhold provider child care assistance reimbursement payments, or authorization for payments, for up to three months after a condition that results in denial or termination of payments under existing law has been corrected.

IV. PROVIDERS

A. Child Care Assistance Fraud Investigations/Sanctions

Chapter 108, Article 5, Sections 1 and 5 (HF 1233)

Adds Minn. Stat. §§ 13.461, subd. 7b; and 245E.01

Effective July 1, 2013

Creates statutory authorization for DHS investigations of child care assistance fraud by the Office of Inspector General. Governs: (1) processes and scope of investigations; (2) administrative sanctions; (3) appeals; and (4) recovery of payments. Makes CCAP recipients subject to sanction only if their conduct is related to the financial misconduct of: (1) a provider; (2) license holder; or (3) controlling individual. Protects data under Chapter 13, and provides that data has the same classification as other licensing data.

Note: Data protections are established under the new section (Minn. Stat. § 245E.01, subd. 15), which makes data subject to the provisions of Minn. Stat. § 13.461.

B. Liability Insurance

Chapter 108, Article 3, Section 19 (HF 1233)

Adds Minn. Stat. § 245A.152

Effective July 1, 2013

Requires child care providers to notify parents in writing prior to admission whether or not the provider carries liability insurance. Requires providers to possess signed documentation that each parent received all required notices regarding liability insurance coverage. Requires that a provider having liability insurance: (1) make the certificate of coverage available to parents, DHS, and the county licensing agency; (2) notify parents that the certificate of coverage is available for inspection; (3) include the policy's expiration date in the notice; (4) upon the policy's expiration date, notify all parents whether or not the policy has been renewed and, if renewed, provide the new expiration date; and (5) immediately notify all parents/guardians of any changes in coverage. Requires providers without liability insurance, to provide an annual notice of the lack of insurance to all families.

CONSUMER LAW

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I. AUTO TITLE LENDING

Chapter 40 (HF 648)

Adds Minn. Stat. § 47.602

Effective August 1, 2013, and applies to credit extended on or after that date

A. Requirements

Requires a lender operating under Chapter 53 (Industrial Loan and Thrifts) or Chapter 56 (Regulated Lender) that offers loans where the collateral is the title to the borrower's automobile to lend under the rates, terms, and conditions specified in the section of statutes governing auto title lending (Minn. Stat. §§ 325J.07 and 325J.095).

Adds Minn. Stat. § 47.602, subd. 2

B. Exemptions

Exempts banks, credit unions, automobile dealers, and Motor Vehicle Retail Installment Sales Act (Chapter 53C) transactions.

Adds Minn. Stat. § 47.602, subd. 3

Note: This bill closes a loophole allowing payday lenders with Chapter 53 or other licenses to evade the requirements of auto title lending found in the Pawnbroker statutes and otherwise applicable.

II. CONTRACTS FOR DEED

Chapter 85, Article 6, Sections 6, 7, 8, 9, and 13 (HF 729)

Amends Minn. Stat. §§ 507.235, subd. 2; and 559.211, subd. 2

Adds Minn. Stat. §§ 559.201; and 559.202

Repeals Minn. Stat. § 507.235, subd. 4

Various Effective Dates

A. Provisions Affecting All Contracts for Deed

1. Penalties for Failure to Record

a. Civil Fine

Absolves a vendee from liability for a civil fine for failure to record a contract for deed if

the vendee does not receive a copy of the contract in recordable form, as required under Minn. Stat. § 507.235, subd. 1.

Amends Minn. Stat. § 507.235, subd. 2

Effective August 1, 2013

b. Criminal Penalty

Abolishes any criminal liability for failure to record a contract for deed within the time provided under Minn. Stat. § 507.235, subd. 1.

Repeals Minn. Stat. § 507.235, subd. 4

Effective August 1, 2013

2. Availability of Action

Grants the court the authority to hear claims and grant relief for actions taken after the expiration of the contract for deed cancellation period provided under Minn. Stat. § 559.21.

Amends Minn. Stat. § 559.211, subd. 2

Effective August 1, 2013

B. Provisions Affecting Certain Contracts for Deed

1. Key New Definition

Defines "multiple seller" as a seller in four or more contracts for deed involving residential real property during the 12-month period that precedes either: (1) the date on which the purchaser executes a purchase agreement; or (2) if there is no purchase agreement, the date on which the purchaser executes a contract for deed.

Adds Minn. Stat. § 559.201, subd. 4

Effective August 1, 2013

2. Required Disclosures

a. Who Must Give Disclosure

Limits the requirement to give the disclosure to multiple sellers.

Adds Minn. Stat. § 559.201, subd. 1(a)

Effective August 1, 2013, and applies to transactions in which the contract for deed and the purchase agreement for the contract for deed, if any, were both executed on or after that date

b. Exemptions

Exempts multiple sellers from the disclosure requirements if the purchaser is represented by: (1) an attorney licensed in Minnesota; or (2) a real estate broker or

salesperson, provided that the representation does not create a dual agency.

Adds Minn. Stat. § 559.201, subd. 2

Effective August 1, 2013, and applies to transactions in which the contract for deed and the purchase agreement for the contract for deed, if any, were both executed on or after that date

c. Disclosure Requirements

Requires the disclosure to the prospective purchaser be: (1) in writing; (2) signed and dated by the purchaser; and (3) affixed to the purchase agreement, or, if there is no purchase agreement, provided in a document separate from any other document.

Adds Minn. Stat. § 559.201, subd. 1(d) (writing, signature, date)

Adds Minn. Stat. § 559.201, subd. 1(b) (if purchase agreement)

Adds Minn. Stat. § 559.201, subd. 1(c) (no purchase agreement)

Effective August 1, 2013, and applies to transactions in which the contract for deed and the purchase agreement for the contract for deed, if any, were both executed on or after that date

d. Contents of the Disclosure

Requires a verbatim disclosure: (1) providing information for the prospective purchaser about risks and obligations of contracts for deed; and (2) offering advice about consumer protection actions recommended to be taken prior to entering into a contract for deed.

1) Information About Risks and Obligations

Informs the prospective purchaser, among other things: (1) that rental and foreclosure protections do not apply; (2) whether the contract makes the purchaser liable for obtaining homeowner's insurance, paying property taxes, and making repairs; (3) that a balloon payment will likely be necessary; (4) that breach can result in loss of previous payments and all rights to the property; (5) about recordation obligations; and (6) of the right to cancel.

Adds Minn. Stat. § 559.201, subd. 3

Effective August 1, 2013, and applies to transactions in which the contract for deed and the purchase agreement for the contract for deed, if any, were both executed on or after that date

2) Advice

Recommends that, before entering into a contract for deed, a purchaser: (1)

seek advice from a lawyer or the Minnesota Home Ownership Center; (2) get an appraisal; (3) get an inspection; (4) purchase title insurance; and (5) identify whether there are unpaid utility bills or liens on the property.

Adds Minn. Stat. § 559.201, subd. 3

Effective August 1, 2013, and applies to transactions in which the contract for deed and the purchase agreement for the contract for deed, if any, were both executed on or after that date

e. Resolution of Disputes Regarding Delivery of Disclosure

Establishes a rebuttable presumption that the disclosure was not provided unless the original executed contract for deed contains a verbatim statement, initialed by the purchaser, acknowledging receipt of the disclosure.

Adds Minn. Stat. § 559.201, subd. 1(e)

Effective August 1, 2013, and applies to transactions in which the contract for deed and the purchase agreement for the contract for deed, if any, were both executed on or after that date

3. Waiting Period

Prohibits multiple sellers and purchasers from executing a contract for deed sooner than five business days: (1) following execution of a purchase agreement, and delivery of the notice; or (2) if there is no purchase agreement, after the delivery of the notice.

Adds Minn. Stat. § 559.201, subd. 1(b) (if a purchase agreement)

Adds Minn. Stat. § 559.201, subd. 1(c) (if no purchase agreement)

Effective August 1, 2013, and applies to transactions in which the contract for deed and the purchase agreement for the contract for deed, if any, were both executed on or after that date

4. Right to Cancel

Gives a prospective purchaser the right to cancel purchase agreement without penalty within five business days after actually receiving the disclosure if the multiple seller fails to timely deliver the disclosure. Requires the multiple seller to promptly refund any payments upon cancellation. Extinguishes the right to cancel once a contract for deed is executed.

Adds Minn. Stat. § 559.201, subd. 4

Effective August 1, 2013, and applies to transactions in which the contract for deed and the purchase agreement for the contract for deed, if any, were both executed on or after that date

5. Remedies for Failure to Timely Deliver Disclosure

Provides that a purchaser has a private right of action against a multiple seller for failure to timely provide the disclosure. Makes the violator liable for: (1) the greater of actual damages or statutory damages of \$2,500; and (2) reasonable attorney fees and court costs. Provides for treble damages for a knowing violation. Makes the remedies cumulative. Provides that a violation has no effect on the validity of the contract.

Adds Minn. Stat. § 559.201, subd. 5 (remedies)

Adds Minn. Stat. § 559.201, subd. 6 (effect of violation on contract)

Effective August 1, 2013, and applies to transactions in which the contract for deed and the purchase agreement for the contract for deed, if any, were both executed on or after that date

6. Duty to Account

Requires the seller, upon reasonable request of the purchaser, to provide no more than once a year an accounting of the: (1) payments made to date; (2) interest paid to date; and (3) balance remaining.

Adds Minn. Stat. § 559.201, subd. 7

Effective August 1, 2013, and applies to transactions in which the contract for deed and the purchase agreement for the contract for deed, if any, were both executed on or after that date

7. No Waiver Provision

Prohibits waiver of any rights provided under the new provisions.

Adds Minn. Stat. § 559.201, subd. 7

Effective August 1, 2013, and applies to transactions in which the contract for deed and the purchase agreement for the contract for deed, if any, were both executed on or after that date

III. DEBT BUYERS: REQUIREMENTS FOR DEFAULT JUDGMENTS

Chapter 104 (HF 80)

Adds Minn. Stat. § 548.101

Effective September 1, 2013, and applies to requests, applications, and motions for default judgments and conciliation court cases filed on or after that date

A. Applicability

Applies to parties seeking default judgments in district or conciliation court on assigned and defaulted debt incurred primarily for personal, family, or household purposes.

Adds Minn. Stat. § 548.101(a)

B. Pre-Filing Notice

Requires a party intending to seek a default judgment on an assigned debt to send a statutory, verbatim notice to the debtor at the debtor's last known address at least 14 days prior to the request, application, or motion for judgment informing the debtor of the intent to seek the judgment.

Adds Minn. Stat. § 548.101(a)(7)

C. Proofs

Requires parties seeking default judgments on assigned debt to offer specific proofs.

1. Admissible Evidence

Requires admissible evidence establishing: (1) that the defendant owes the debt; (2) that the amount claimed to be owed is accurate; and (3) a valid and complete chain of assignment of the debt from the original creditor to the party requesting judgment.

2. Original Contract

Requires plaintiffs to produce a copy of the original written contract or, if no written contract exists, other admissible evidence establishing the contract terms.

3. Debtor's Social Security Number

Requires plaintiffs to provide, if known, the last four numbers of the debtor's Social Security number.

4. Proof of Service and Failure to Answer

Requires plaintiffs to show that: (1) the summons and complaint were properly served; and (2) the debtor failed to timely answer or, in conciliation court cases, the party seeking the judgment used reasonable efforts to provide the court administrator with the debtor's correct address.

5. Mailing of Notice of Intent to Seek Judgment

Requires plaintiffs seeking judgment in district court, to prove that the notice of intent to seek a judgment was mailed.

Adds Minn. Stat. § 548.101 (a)(1) - (7)

D. Adjudication

Except in conciliation court cases or if a hearing is required under court rules, permits the court to either: (1) hold a hearing before entry of a default judgment; or (2) enter an administrative default judgment without a hearing if the court determines that the evidence submitted satisfies the evidentiary requirements of the statute.

Adds Minn. Stat. § 548.101(c)

IV. DEBT COLLECTION

Chapter 104 (HF 80)

Amends Minn. Stat. §§ 491A.02, subd. 9; 550.011; and 588.04

Adds Minn. Stat. § 541.053

Effective August 1, 2013

A. Statute of Limitation for Actions on Debts

Establishes a six-year statute of limitations for commencement of an action to collect a consumer debt incurred primarily for personal, family, or household purposes.

Adds Minn. Stat. § 541.053

B. Revival of Debt

Prohibits the revival of a consumer debt incurred primarily for personal, family, or household purposes once the six-year statute of limitations has expired by: (1) the collection of a payment on an account; (2) a discharge in a bankruptcy proceeding; or (3) an oral or written reaffirmation of the debt.

Adds Minn. Stat. § 541.053

C. Bail for Contempt for Failure to Complete Judgment Debtor Disclosure Form

1. Amount

Set bail at \$50 when: (1) the underlying case involves a consumer debt incurred primarily for personal, family, or household purposes; and (2) the contempt is a failure to comply with judgment debtor disclosure requirements. Provides that bail for any subsequent contempt for a failure to disclose in the same action must be set by the court after considering aggravating and mitigating factors.

Amends Minn. Stat. § 588.04 by adding paragraph (b)

2. Return of Bail

Provides that, upon cure, bail must be returned to the debtor.

Amends Minn. Stat. § 588.04 by adding paragraph (b)

V. DEBT MANAGEMENT

Chapter 91 (HF 694)

Amends Minn. Stat. § 332A.02, subd. 8

Adds Minn. Stat. § 332A.02, subd. 10a

Effective August 1, 2013

Limits exemption for attorneys to only an "exempt attorney at law." Creates new definition of "exempt attorney at law" to mean an attorney licensed or authorized to practice law in Minnesota: (1) whose exclusive or principal practice does not involve the provision of debt management services; and (2) who does not have a business relationship with a debt management services provider that involves the provision of debt management services.

Amends Minn. Stat. § 332A.02, subd. 8 (limiting exemption)

Adds Minn. Stat. § 332A.02, subd. 10a (adding definition of "exempt attorney at law")

VI. DEBT SETTLEMENT

Chapter 91 (HF 694)

Amends Minn. Stat. §§ 332B.02, subd. 13; 332B.06, subs. 1 and 4; and 332B.09, subs. 2 and 3

Adds Minn. Stat. §§ 332A.02, subd. 13a

Various Effective Dates

A. Attorney Exemption

Limits exemption for attorneys to only an "exempt attorney at law."

Amends Minn. Stat. § 332B.02, subd. 13

Effective August 1, 2013

B. Defining "Exempt Attorney at Law"

Creates new definition of "exempt attorney at law" to mean an attorney licensed or authorized to practice law in Minnesota: (1) whose exclusive or principal practice does not involve the provision of debt settlement services; and (2) who does not have a business relationship with a debt settlement services provider that involves the provision of debt settlement services.

Adds Minn. Stat. § 332B.02, subd. 13a

Effective August 1, 2013

C. Fees

Eliminates the current fee structure. Prohibits a debt settlement services provider from collecting any payment before the full performance of: (1) the contracted debt settlement services; and (2) any additional promised services.

Amends Minn. Stat. § 332B.09, subd. 3

Effective for debt settlement service agreements entered into on or after August 1, 2013

D. Contract/Disclosures in Other Languages

Requires the mandated written contract and the mandatory disclosures be provided to the consumer in the language in which the agreement was negotiated.

Amends Minn. Stat. § 332B.06, subd. 1 (contract)

Amends Minn. Stat. § 332B.06, subd. 4 (disclosures)

Effective for debt settlement service agreements entered into on or after August 1, 2013

VII. FORECLOSURE ADVICE NOTICE

Chapter 115, Section 2 (SF 1276)

Amends Minn. Stat. § 580.041, subd. 1b

Effective August 1, 2013

Reduces the obligation of a foreclosing party to provide the statutory foreclosure advice notice by requiring delivery only up to the day of the foreclosure sale.

Note: *Current law requires delivery up to the day the redemption period expires.*

VIII. FORECLOSURE RELIEF

Chapter 115, Sections 1, 3, 4, and 5 (SF 1276)

Amends Minn. Stat. §§ 580.02; 582.25; and 582.27

Adds Minn. Stat. § 582.043

Various Effective Dates

A. Applicability

1. Limitations

Limits applicability of new provisions to first lien mortgages that: (1) are governed by either foreclosures by action (judicial) or foreclosures by advertisement (nonjudicial) statutes

(Chapter 580 and 581); (2) are secured by one-to-four-family residential real property that is the principal residence of the owner; and (3) do not secure a loan for business, commercial, or agricultural purposes.

Adds Minn. Stat. § 582.043, subd. 2

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., Ch. 581, recorded on or after August 1, 2013

2. Exemptions for "Small Servicers"

a. Time Limited Exemption

Until August 1, 2014, exempts a servicer that has conducted 125 or fewer foreclosure sales during the preceding 12 months.

Adds Minn. Stat. § 582.043, subd. 1(f)

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., Ch. 581, recorded on or after August 1, 2013

b. Permanent Exemption

Exempts a servicer that either: (1) is a small servicer as defined in proposed rules of the Consumer Financial Protection Bureau (i.e., services 5,000 or fewer mortgage loans in which the servicer or an affiliate is the creditor or assignee; or (2) is a Housing Finance Agency as defined in federal regulations.

Adds Minn. Stat. § 582.043, subd. 1(f)

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., Ch. 581, recorded on or after August 1, 2013

B. New Key Definitions

1. "Foreclosure Sale Date"

"Foreclosure sale date" defined to mean the later of either the date: (1) contained in the notice of foreclosure that has been served or published; or (2) to which the sale has been postponed, as is provided under Minn. Stat. § 580.07, subd. 2.

Adds Minn. Stat. § 582.043, subd. 1(b)

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., Ch. 581, recorded on or after August 1, 2013

2. "Loss Mitigation Option"

Defines "loss mitigation option" to mean "a temporary or permanent loan modification, a forbearance agreement, a repayment agreement, a principal reduction, capitalizing arrears, or any other relief, intended to allow a mortgagor to retain ownership of the property."

Adds Minn. Stat. § 582.043, subd. 1(c)

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., Ch. 581, recorded on or after August 1, 2013

C. Loss Mitigation Requirements

Requires servicers to: (1) notify the homeowner in writing of available loss mitigation options offered by the servicer prior to referral to foreclosure; (2) exercise reasonable diligence to facilitate submission and review of loss mitigation applications and supporting documents; (3) provide a reasonable amount of time for submission of documents; (4) evaluate the homeowner for eligibility for a loss mitigation option prior to referral to foreclosure if the servicer has timely received a loss mitigation application; (5) timely offer the homeowner a loan modification or other loss mitigation option for which the homeowner is eligible; and (6) comply with any applicable appeal period and procedures.

Adds Minn. Stat. § 582.043, subd. 5

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., Ch. 581, recorded on or after August 1, 2013

D. Procedures to Avoid Dual Tracking

Note: "Dual Tracking" is the practice of simultaneously proceeding with a foreclosure and considering an application for a loan modification or other option to avert foreclosure.

1. Prohibitions

a. Prior to Referral to Foreclosure

Prohibits a servicer from initially referring a mortgage loan for foreclosure if the servicer has received a loss mitigation application that has not yet been acted upon.

Adds Minn. Stat. § 582.043, subd. 6(a)

Effective October 31, 2013

b. After Referral to Foreclosure but Before Sale Scheduled

Prohibits a servicer from conducting a foreclosure sale or seeking a judgment of foreclosure if the servicer has received a loss mitigation application that has not yet been acted upon.

Adds Minn. Stat. § 582.043, subd. 6(b)

Effective October 31, 2013

c. After Foreclosure Sale Scheduled but Before Sale Held

Prohibits a servicer from conducting - and requires a servicer to halt -- a foreclosure sale or seeking a judgment of foreclosure if the servicer has received a loss mitigation application by midnight of the seventh business day prior to the foreclosure sale date.

Adds Minn. Stat. § 582.043, subd. 6(c)

Effective October 31, 2013

2. Permitted Practices

Permits a servicer to proceed with the foreclosure action if the homeowner: (1) is provided written notification of the ineligibility for a loss mitigation option and any appeal period has expired; (2) fails to accept a written loss mitigation offer where written offer is applicable and acceptance is required; or (3) declines, in writing, a loss mitigation offer.

Adds Minn. Stat. § 582.043, subd. 6(a), (b), and (c)

Effective October 31, 2013

E. New Requisite to Foreclosure by Advertisement

Adds a fifth requisite to foreclose by advertisement: compliance with new provisions concerning loss mitigation and dual tracking.

Amends Minn. Stat. § 580.02

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., Ch. 581, recorded on or after August 1, 2013

F. Enforcement

1. Right to Bring an Action

Provides a homeowner with a cause of action for violations of the loss mitigation and dual tracking provisions to halt or set aside a foreclosure sale and provides for attorney fees and costs.

Adds Minn. Stat. § 582.043, subd. 7(a)

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., Ch. 581, recorded on or after August 1, 2013

2. Qualifications on Bringing an Action

a. Time Limit to Bring Action

Requires a claim to be brought before the end of the applicable redemption period.

Amends Minn. Stat. § 582.25 (validating foreclosure sales)

Amends Minn. Stat. § 582.27, subd. 1 (curative provisions)

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., Ch. 581, recorded on or after August 1, 2013.

b. Recordation of Lis Pendens

Requires that a lis pendens must be recorded prior to the end of the redemption period in order for a claim to be brought. Establishes a conclusive presumption that the servicer has complied with the new provisions if the lis pendens is not timely recorded.

Adds Minn. Stat. § 582.043, subd. 7(b)

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., Ch. 581, recorded on or after August 1, 2013

IX. GARNISHMENT EXEMPTIONS: UPDATE OF DOLLAR AMOUNTS

Chapter 135, Article 2, Sections 9 - 15 (HF 1221)

Amends Minn. Stat. § 550.37, subs. 4, 4a, 6, 10, 12a, 23, and 24

Effective May 25, 2013

Adjusts dollar amount limits for property exempt from attachment, garnishment, or sale. Key items include:

Item of Property	Statute	Updated amount exempt	Previous Amount Exempt
Employee Benefits	Minn. Stat. § 550.37, subd. 24	\$69,000	\$30,000
Household Goods (Furniture, radio, TV, Phonographs)	Minn. Stat. § 550.37, subd. 4(b)	\$10,350	\$4,500
Insurance Proceeds <i>For each dependent of surviving spouse or child</i>	Minn. Stat. § 550.37, subd. 10	\$46,000 \$11,500	\$20,000 \$5,000
Life Insurance Interest	Minn. Stat. § 550.37, subd. 23	\$9,200	\$4,000
Motor Vehicles <i>If modified to accommodate a physical disability</i>	Minn. Stat. § 550.37, subd. 12a	\$4,600 \$46,000	\$2,000 \$20,000
Tools of the Trade	Minn. Stat. § 550.37, subd. 6	\$11,500	\$5,000
Wedding Rings	Minn. Stat. § 550.37, subd. 4(c)	\$2,817.50	\$1,225

X. LOAN MODIFICATIONS

Chapter 17 (HF 129)

Amends Minn. Stat. § 325N.01(a)(8)

Effective August 1, 2013

Eliminates the mortgage originator exception, requiring compliance despite the possession of a mortgage originator license with the sections of the Equity Stripping Law governing foreclosure consultants, specifically sections governing: (1) rescission and cancellation; (2) contract disclosures; (3) prohibited practices; (4) waiver of rights; (5) consumer remedies; and (6) arbitration clauses. Does not remove exemption from criminal and civil liability for mortgage originators who violate foreclosure consultant requirements and prohibitions.

XI. MONEY TRANSMITTERS

Chapter 50 (HF 194)

Adds Minn. Stat. §§ 53B.27, subds. 3 - 7

Effective January 1, 2014, and applies to money transfers initiated on or after that date

and

Chapter 103 (HF 527)

Amends Minn. Stat. § 53B.27, subds. 1

Effective May 25, 2013

A. No Transmit List

Directs the Department of Commerce to create and maintain an electronic list of individuals who are prohibited from making or receiving money transmissions. Permits the following persons and entities to add names to the list: (1) senders; (2) recipients; (3) legally authorized agents of senders or recipients; and (4) law enforcement agencies. Requires money transmitters to convey names of individuals to be added to the list who: (1) have requested inclusion; and (2) the transmitters have detected are victims and perpetrators of money transmission fraud. Provides that an individual may request removal from the list after one year.

Adds Minn. Stat. § 53B.27, subd. 3

Effective January 1, 2014, and applies to money transfers initiated on or after that date.

B. Numerous Incidences

Authorizes the Department of Commerce to recommend a ceiling on a per-transmission amount of money that may be sent to countries associated with high incidence of schemes to defraud consumers.

Adds Minn. Stat. § 53B.27, subd. 5

Effective January 1, 2014, and applies to money transfers initiated on or after that date.

C. Preventing Fraud

1. Clarification of Applicability of Fraud Prevention Measures

Limits the provision of the required consumer fraud warning on transmittal forms to only transmissions to individuals.

Amends Minn. Stat. § 53B.27, subds. 1

Effective May 25, 2013

2. Prohibition on Transmission

Prohibits a money transmitter from authorizing receipt of the transfer at any physical location not specified in writing by the sender at the time of the transmission.

Adds Minn. Stat. § 53B.27, subd. 6

Effective January 1, 2014, and applies to money transfers initiated on or after that date.

3. Verifying Recipient Name and Location

Requires a money transmitter - if requested by a sender or the sender's authorized agent - to verify the physical location where the transfer was received and the name of the recipient.

Adds Minn. Stat. § 53B.27, subd. 7

Effective January 1, 2014, and applies to money transfers initiated on or after that date.

4. Alerting Consumers of Possible Fraud

Requires transmitter - if requested by a sender or the sender's authorized agent - to notify the sender if the transmitter has notice that the funds are received in a country or other physical location different from the country or location specified by the sender.

Adds Minn. Stat. § 53B.27, subd. 6

Effective January 1, 2014, and applies to money transfers initiated on or after that date.

XII. NEGLIGENCE WAIVER

Chapter 118 (HF 792)

Adds Minn. Stat. § 604.055

Effective August 1, 2013, and applies to agreements signed or accepted on or after that date

Declares void and unenforceable agreements between parties for a consumer service that purport to release, limit, or waive liability of one a party for damage, injuries, or death resulting from conduct that constitutes greater than ordinary negligence. Makes the agreement severable from the waiver for: (1) damage, injuries, or death resulting from conduct that constitutes ordinary negligence; or (2) risks that are inherent in a particular activity. Grants the court the authority to an agreement is void and unenforceable as against public policy on other grounds or under other law. Exempts tort claims against: (1) the state; and (2) a municipality.

XIII. UPDATE OF DOLLAR AMOUNTS THRESHOLDS INVOLVING FINANCIAL TRANSACTIONS

Chapter 135, Article 2, Sections 1 - 8 (HF 1221)

Amends Minn. Stat. §§ 47.59, subds. 3 and 6; 56.12; 56.125, subds. 2; 56.131, subd. 2 and 6; and 325G.22, subd. 1

Effective May 25, 2013

Note: *A number of statutory dollar amounts are changed in this bill, however only a few are highlighted here.*

A. Changes to Chapter 47 (Financial Corporations)

1. Finance Charges for Certain Credit

Increases to \$1,125 (from \$750) the unpaid principal on which various interest rates apply, as follows:

- 33% APR on the part of the unpaid principal amount up to \$1,125; and
- 19% APR on the part of the unpaid principal amount exceeding \$1,125.

Amends Minn. Stat. § 47.59, subd. 3(a)

2. Additional Fees

a. Allowable Delinquency Charge for Certain Credit

Increases to a maximum of \$7.80 (from \$5.20) the allowable delinquency charge on a missed payment, including the minimum payment due in connection with open-end credit.

b. Amount Subject to Administrative Charge for Certain Credit

Increases to \$6,480 or less (from \$4,320 or less) the cap on the original principal amount loaned in connection with closed-end credit on which a onetime loan administrative fee not exceeding \$25 may be imposed and included in the principal balance upon which the finance charge is computed.

Amends Minn. Stat. § 47.59, subd. 6(d)

B. Changes to Chapter 56 (Regulated Loans)

1. Security for Real Estate Loans

Increases the maximum principal amount to \$6,480 (from \$4,320) which subjects a loan made by a regulated lender to a security lien on real property.

Amends Minn. Stat. § 56.12

2. Security for Open-End Real Estate Loans

Increases to \$6,480 (from \$4,320) the outstanding balance on an open-end loan that, once exceeded, subjects the loan to a lien on real estate taken by a regulated lender.

Amends Minn. Stat. § 56.125, subd. 2

3. Maximum Rates and Charges

a. Closing Costs

Increases to the greater of 1% of the principal amount or \$600 (from \$400) the allowable cap on closing costs on a loan secured by real estate offered by a regulated lender.

Amends Minn. Stat. § 56.131, subd. 2

b. Discount Points

Increases to \$18,000 (from \$12,000) the minimum principal on a loan that triggers the ability of a regulated lender to charge discount points.

Amends Minn. Stat. § 56.131, subd. 6

C. Deficiency on Loans for Personal Property

Increases to \$6,900 (from \$3,000) the maximum amount of a loan below which exempts a consumer from a deficiency where a securitized item of personal property is repossessed or voluntarily surrendered.

Amends Minn. Stat. § 325G.22, subd. 1

COURTS AND EVIDENCE

Courts

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I. COURT TECHNOLOGY FEE

Chapter 86, Article 3, Section 6 (SF 671)

Adds Minn. Stat. § 357.021, subd 2b

Effective July 1, 2013, and applies to filings on or after that date

Sunset June 30, 2018

A. New Fee

Creates an additional \$2 court fee to be used for technology for the state courts and their justice partners. Permits the Judicial Council to appoint an advisory board – which may include civil legal services members – to make recommendations for the Council’s disposition of funds generated from the technology fee. Provides that applicants for the funding may include qualified civil legal service agencies (defined in Minn. Stat. § 480.24) and applications may be submitted to: (1) the Judicial Council; and (2) if created, the advisory board.

B. Applicability of the Technology Fee

Applies the new fee to the list of filings listed under Minn. Stat. § 357.021, subd. 2, which include, among other things: (1) initial paper in every civil action or proceeding; (2) certified copies of any instrument from a civil or criminal proceeding; (3) issuance of a subpoenas, executions, writs, transcript of judgment; (4) filing a motion or response to a motion for modification of child support and in certain civil and other family cases; (5) filing and docketing a transcript of judgment from another court; (6) filing and entering any satisfaction or assignment of judgment; and (7) deposit of a will.

C. Report to the Legislature

Directs the Judicial Council to report to the Legislature by January 15, 2015 and again by January 15, 2017 on: (1) the amounts collected and expended in the previous biennium; (2) those who received funds; (3) the amount awarded to each recipient; and (4) the technology purpose for which funds were awarded.

Evidence

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I. UNIFORM ELECTRONIC LEGAL MATERIAL ACT

Chapter 7 (HF 278)

Adds Chapter 3E (Minn. Stat. §§ 3E.01 - .10)

Effective January 1, 2015

A uniform law adopted by the National Conference of Commissioners on Uniform State Laws (NCCUSL) relating exclusively to use of the Minnesota's Constitution, Session Laws, Statutes, and Rules as record documents.

A. Definition of "Legal Material"

Defines "legal material" exclusively as: (1) the Minnesota Constitution; (2) Laws of Minnesota; (3) Minnesota Statutes; or (4) Minnesota Rules.

Adds Minn. Stat. § 3E.02, subd. 3

B. Publication

1. In Electronic Form Only

Requires the Revisor to designate the electronic record as official if the Revisor publishes legal material only in electronic form.

Adds Minn. Stat. § 3E.04, subd. 1

2. In Both Print and Electronic Form

Enables the Revisor to designate the electronic record as official if the Revisor publishes legal material in both print and electronic form.

Adds Minn. Stat. § 3E.04, subd. 2 (if both print and electronic record)

3. Requirements for Designation as Official Record

Requires the Revisor, regardless of what form the record is published, to: (1) authenticate the record; (2) preserve and secure the record; and (3) ensure the record's public availability.

Adds Minn. Stat. § 3E.05 (authentication of record)

Adds Minn. Stat. § 3E.07 (preservation/securitization of record)

Adds Minn. Stat. § 3E.08 (public availability of record)

C. Presumption of Accuracy

Presumes the authenticated electronic records to be accurate. Presumes legal material in electronic form from another state is accurate if the state has a substantially similar law. Imposes the burden of proof on the party contesting accuracy.

Adds Minn. Stat. § 3E.06, subd. 1 (presumption of accuracy)

Adds Minn. Stat. § 3E.06, subd. 2 (presumption for other states' records)

Adds Minn. Stat. § 3E.06, subd. 3 (burden of proof)

II. DEBT BUYERS: PROOF REQUIREMENTS FOR AND ADMINISTRATION OF DEFAULT JUDGMENTS

Chapter 104 (HF 80)

Adds Minn. Stat. § 548.101

Effective September 1, 2013, and applies to requests, applications, and motions for default judgments and conciliation court cases filed on or after that date

A. Applicability

Applies to parties seeking default judgments in district or conciliation court on assigned and defaulted debt incurred primarily for personal, family, or household purposes.

Adds Minn. Stat. § 548.101(a)

B. Proofs

Requires parties seeking default judgments on assigned debt to offer specific proofs.

1. *Admissible Evidence*

Requires admissible evidence establishing: (1) that the defendant owes the debt; (2) that the amount claimed to be owed is accurate; and (3) a valid and complete chain of assignment of the debt from the original creditor to the party requesting judgment.

2. *Original Contract*

Requires plaintiffs to produce a copy of the original written contract or, if no written contract exists, other admissible evidence establishing the contract terms.

3. *Debtor's Social Security Number*

Requires plaintiffs to provide, if known, the last four numbers of the debtor's Social Security number.

4. *Proof of Service and Failure to Answer*

Requires plaintiffs to show that: (1) the summons and complaint were properly served; and (2) the debtor failed to timely answer or, in conciliation court cases, the party seeking the judgment used reasonable efforts to provide the court administrator with the debtor's correct address.

5. *Mailing of Notice of Intent to Seek Judgment*

Requires plaintiffs seeking judgment in district court, to prove that the notice of intent to seek a judgment was mailed.

Adds Minn. Stat. § 548.101 (a)(1) - (7)

C. Adjudication

Except in conciliation court cases or if a hearing is required under court rules, permits the court to either: (1) hold a hearing before entry of a default judgment; or (2) enter an administrative default judgment without a hearing if the court determines that the evidence submitted satisfies the evidentiary requirements of the statute.

Adds Minn. Stat. § 548.101(c)

DATA PRACTICES

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I. CHILD MALTREATMENT NOTIFICATION TO PARENTS

Chapter 82, Sections 5 and 38 (SF 745)

Amends Minn. Stat. §§ 13.43, subd. 14; and 626.556, subd. 7

Effective August 1, 2013

Requires a school to notify a parent, legal guardian or custodian of a child that an incident occurred in a school facility that could constitute maltreatment of the child even if a maltreatment report is not required under the Maltreatment Reporting Act (Minn. Stat. § 626.556). Requires the notification of the incident to: (1) occur as soon as practicable and (2) include when the incident occurred and the nature of the conduct. Allows personnel data to be released for purposes of providing the information required for notification.

II. PERSONS WITH DISABILITIES

Chapter 82, Sections 7 and 8 (SF 745)

Amends Minn. Stat. §§ 13.64, subd. 2; and 13.72, subd. 10

Various Effective Dates

A. Persons who use certain Assistive Technology Devices

Classifies data maintained by the Department of Administration on individuals or their family members who use services funded by the federal Assistive Technology Act (*See* 29 U.S.C. §§ 3001 - 3007) as private data, if the services are for: (1) assistive technology device demonstrations; (2) transition training; (3) loans; (4) reuse; or (5) alternative financing.

Effective August 1, 2013

B. Transportation Data

Includes names or applicants for services for the elderly or disabled from the Department of Transportation as private data.

Note: Other personal/application data is already private under existing law.

Effective May 24, 2013

III. UNEMPLOYMENT DATA

Chapter 82, Section 19 (SF 745)

Amends Minn. Stat. § 268.19, subd. 1

Effective August 1, 2013

Extends access to data gathered under the Minnesota Unemployment Insurance Law to the Department of Corrections for purposes of pre- and post-probation employment tracking, except as otherwise prohibited. Provides that consent of the subject is not required to share the data with the Department of Corrections.

IV. BUREAU OF CRIMINAL APPREHENSION (BCA)

A. Data and Systems Access

Chapter 82, Sections 26 - 37 (SF 745)

Amends Minn. Stat. §§ 299C.46, subds. 1, 2, 2a, and 3; 299F.035, subds. 1 and 2; 299F.77; 340A.301, subd. 2; 340A.402; 611.272; and 611A.203, subd. 4

Adds Minn. Stat. § 299C.72

Various Effective Dates

Updates, and in some cases expands, access to the secure data systems and services maintained by BCA. Also sets forth processes for background checks for various types of employment or licenses.

1. *Federal Agency Access*

Redefines “criminal justice agency” (and correspondingly, “noncriminal justice agency”) to include: (1) federal agencies that are involved in criminal or traffic laws in the state; and (2) federal offices that serve all or part of the state from an office outside of Minnesota.

Effective August 1, 2013

2. *Criminal Justice Communication Network Data*

a. **Expanding/Clarifying Access**

Expands access to the network data to: (1) an agency pursuant to federal law or regulation or state law; and (2) a court pursuant to federal law or regulation or state law for disposition of a pending case. Clarifies that for agencies to have access for public protection in a public emergencies, the emergency must be declared.

Effective August 1, 2013

b. **Expansion of Access to Other States or Countries**

Expands the authority of the Department of Public Safety to arrange for the connection of the network with the criminal justice information system of other states and any country for, among other things, federal security clearances related to national security and declared public emergencies.

Effective August 1, 2013

Note: Currently, Department of Public Safety authorization for the purposes provided extends only so far as any adjacent state and Canada.

c. **Requirements for Access**

1. *Criminal Justice Agencies*

Requires, generally for access by an agency other than one located in the Minnesota judicial branch: (1) payment of any fees: (2) agreement to comply with the BCA security policies and the Data

Practices Act; (3) performance of FBI fingerprints on all employees and contractors.

Effective August 1, 2013

2. *Judicial Branch*

Clarifies that, a criminal justice agency that is part of the Judicial Branch need comply with the Data Practices Act only to the extent compliance is applicable and consistent with the Judicial Branch's Rules of Public Access to Judicial Branch records. Provides that all other requirements applicable to criminal justice agencies must be met.

Effective August 1, 2013

3. *Noncriminal Justice Agencies*

Requires that noncriminal justice agencies that do not have a secure network with the BCA database must perform an additional background check on anyone who has access or reviews information from the database, even if the data is provided through another network/process authorized by law.

Effective August 1, 2013

4. *Public Defenders*

Expands access for public defenders regarding witnesses in criminal trials to additionally include: (1) custody status; (2) custody history; (3) aliases and known monikers; (4) race; (5) probation status; (6) identity of probation officer; and (7) booking photos.

Effective August 1, 2013

5. *Domestic Fatality Review Team*

Expands access for Domestic Fatality Review Team to all corrections and detention data under Minn. Stat. § 13.85.

Note: This is essentially all data held by corrections and detention facility.

Effective May 24, 2013

B. Background Checks

1. *City/County Employment, Volunteer or License*

Establishes process and scope of requirements for criminal background checks for persons seeking: (1) employment or volunteer opportunities; or (2) licenses from city or county government. Establishes statutory requirements and processes for: (1) Fire Departments, including Fire Marshals, which include juvenile records; (2) persons applying for an explosives license; (3) wholesale and retail liquor distributors.

C. Return of Data Under Minnesota Statutes, Chapter 299C

*Chapter 82, Section 25 (SF 745)
Amends Minn. Stat. § 299C.11, subd. 1
Effective August 1, 2013*

Requires the BCA to destroy non-DNA identification data when a petitioner meets the existing petition requirements for “return” of all such data from BCA and local law enforcement.

Note: *Current law requires BCA to physically return the data to the petitioner.*

V. CRIME VICTIM NOTIFICATION DATA

*Chapter 34, Sections 1, 2, 8, and 10 (SF 769)
Amends Minn. Stat. §§ 13,871, subd. 5; 629.72, subd. 6; 629.73
Adds Minn. Stat. § 13.854
Effective August 1, 2014*

Classifies as private data a victim’s: (1) identifying information; (2) requests for notification; and (3) provision of notification regarding the release of a person held in custody.

VI. PERSONAL CONTACT AND ONLINE SUBSCRIPTION ACCOUNT DATA

*Chapter 82, Section 1 (SF 745)
Adds Minn. Stat. § 13.356
Effective May 24, 2013 and applies to data collected, maintained or received before, on or after that date*

Classifies as private data the following information required to establish an online subscription with an agency subject to Chapter 13: (1) a person’s email; (2) a person’s telephone number; and (3) Internet information needed (including user names and passwords). Provides that the private data classification applies to information collected, received or maintained by a government entity for purposes of receiving periodic publications from the government entity. Excludes from protection: (1) public comments; (2) information submitted to the Minnesota Campaign Finance Disclosure Board; or (3) data in an agency’s rulemaking list. Limits use of the data for only the purpose for which it was provided. Provides that no Tennessee warning is required for data collected under this provision.

DEPARTMENT OF HUMAN SERVICES (DHS) LICENSING

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I. BACKGROUND STUDIES

A. Access to Sex Offender Registry

Chapter 108, Article 5, Sections 2, 4, and 12 (HF 1233)

Amends Minn. Stat. §§ 243.166, subd. 7; 245C.08, subd. 1; and 299C.093

Effective July 1, 2013

Expands access to the Predatory Offender (i.e., sex offender) Registry to DHS for purposes of conducting background studies under Minnesota Chapter 245C. Requires DHS to review information from the Predatory Offender Registry when conducting background studies.

B. Access to Court Information System (MNCIS)

Chapter 108, Article 5, Sections 3 and 4 (HF 1233)

Amends Minn. Stat. § 245C.08, subd. 1

Adds Minn. Stat. § 245C.04, subd. 4a

Effective July 1, 2013

Requires DHS to design and implement a process for a regular electronic transfer of new criminal cases from the Minnesota Court Information System (MNCIS).

1. Individuals with Previous Background Studies

a. Individuals Who "Remain Affiliated" with the Same Agency

Provides that the system may include for review only records for individuals with a previous background study who remain affiliated with the same agency. Requires a new background study to be completed -- regardless of how much time has passed -- if the person returns.

Note: A person "remains affiliated" until the agency notifies DHS that the person is no longer affiliated.

b. Consideration of Criminal Case Information

Requires DHS to consider criminal case information received from MNCIS for persons who already have a completed background study but remain affiliated with the same agency that initiated the study.

2. Online System for Agencies

Requires DHS to develop and implement an online system for agencies that initiate background studies under Minnesota Statutes, Chapter 245C so that the agency can access and maintain background studies. Requires the system to: (1) show all active background studies for that agency, and each study's status; and (2) be used by the agency to notify DHS of a person's dis-affiliation with the agency.

DISABILITY LAW

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Acronyms Used in this Section

ADL = Activity of Daily Living

AMRTC = Anoka Metro Regional Treatment Center

ASD = Autism Spectrum Disorder

BI = Brain Injury

CADI = Community Alternatives for Disabled Individuals

DHS = Minnesota Department of Human Services

EW = Elderly Waiver

FPG = Federal Poverty Guidelines

HCBS = Home and Community Based Services Waivers

MA = Medical Assistance

MDH = Minnesota Department of Health

MNCare = MinnesotaCare

MSH = Minnesota Security Hospital

PCA = Personal Care Assistant

Note: This section details legislative changes affecting persons with disabilities. Please see the Health Law Section for additional, general changes that also impact persons with disabilities, including those implementing the Affordable Care Act.

I. AUTISM SPECTRUM DISORDER (ASD)

A. Attorney General Legal Opinion on Parity Coverage

Chapter 108, Article 12, Section 107 (HF 1233)

Uncodified Section

Effective August 1, 2013

Directs the Attorney General - by October 1, 2013 - to issue a written legal opinion on whether a health plan is required to provide coverage of treatment for mental health and mental health-related illnesses, including ASDs and any other mental health condition, as determined by criteria set forth in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association. Requires the Attorney General to provide the opinion to: (1) the

legislative chairs of the Commerce and Health Policy Committees; (2) the Department of Commerce; (3) DHS; and (4) the MNsure board of directors.

B. ASD Prepaid Medical Assistance Program Initiative (PMAP)

Chapter 108, Article 7, Section 48 (HF 1233)

Adds Minn. Stat. § 256B.69, subd. 32a

Effective July 1, 2013

Requires contract provisions in PMAP managed care contracts to improve early identification, screening, assessment, diagnosis, and treatment of young children with ASD and other developmental conditions. Provides for public reporting of the number of children who receive diagnosis assessments and treatment by age and health plan each year beginning July 31, 2014.

C. Department of Commerce Obligations

1. Request on Essential Health Benefits

Chapter 108, Article 12, Section 106 (HF 1233)

Uncodified Section

Effective July 1, 2013

Requires the Department of Commerce to request, by January 31, 2014, that the United States Department of Health and Human Services include autism treatment services in Minnesota's essential health benefits when the next benefit set is selected in 2016.

2. Minnesota Comprehensive Health Association (MCHA) Study

Chapter 108, Article 12, Section 105 (HF 1233)

Uncodified Section

Effective July 1, 2013

Requires the Department of Commerce to study and report back to the Legislature by August 15, 2013 on coverage options for ASD, including whether MCHA could provide through January 1, 2016 under Minnesota Statutes, Chapter 62E.

D. New Medical Assistance Service

Chapter 108, Article 7, Section 14 (HF 1233)

Adds Minn. Stat. § 256B.0949

Various Effective Dates

1. Early Intensive Intervention Services

Establishes a new MA benefit to provide early intensive intervention services to children with ASD diagnoses. Provides for: (1) eligibility; (2) diagnostic requirements; (3) diagnostic assessment; (4) treatment plan components; and (5) six-month progress evaluation requirements to obtain continued services.

Effective upon federal approval but no earlier than March 1, 2014

2. DHS Consultation with Stakeholders

Requires DHS to consult with stakeholders to develop specific requirements for the new benefit, including types of professionals who can be involved in providing services under the new benefit.

Effective July 1, 2013

3. Appropriation

Appropriates \$12.7 million for the 2014-2015 biennium with \$30 million projected for 2016-2017.

Effective July 1, 2013

E. Private Insurance Mandate for Early ASD Treatment

Chapter 108, Article 12, Section 3 (HF 1233)

Adds Minn. Stat. § 62A.3094

Effective for large group health plans offered sold, issued, or renewed on or after January 1, 2014

1. Mandated Coverage

Mandates coverage of intensive early intervention services for fully-insured large employer plans defined under Minn. Stat. § 62Q.18, subd. 1. Requires the coverage for children under age 18 with ASD for: (1) early intensive behavioral and developmental therapy; (2) applied behavior analysis; (3) neurodevelopmental and behavioral health treatment; (4) speech; (5) occupational and physical therapy; and (6) medications. Requires coverage to include: (1) diagnosis; (2) evaluation; (3) multidisciplinary assessment; and (4) medically necessary care. Exempts MA and MNCare from being affected by this private coverage mandate.

2. Progress Evaluation Requirement

Requires independent evaluations to be conducted by a mental health professional to determine if progress has been made toward functional and generalizable gains.

F. Training in Cultural Competence

Chapter 108, Article 7, Section 54 (HF 1233)

Uncodified Section

Effective July 1, 2013

Requires DHS and MDH to assure that autism service providers receive training in culturally appropriate approaches to serving Somali, Latino, Hmong, and indigenous American Indian communities.

G. Request for Waiver to Cover Applied Behavioral Analysis Services

Chapter 108, Article 7, Section 56 (HF 1233)

Uncodified Section

Effective May 24, 2013

Directs DHS to apply for a federal Medicaid waiver in order to cover applied behavior analysis services for children with ASD.

II. HOME AND COMMUNITY-BASED WAIVER SERVICES (HCBS)

A. Behavior Safeguards and Positive Behavior Practices

Chapter 108, Article 8, Sections 4 - 7, 22, 27, 28, 30, 33, 49, and 51 (HF 1233)

Amends Minn. Stat. §§ 245.8251; 245.91; 245.94, subds. 2 and 2a; 256B.092, subd. 1a; and 256B.49, subd. 13

Adds Minn. Stat. §§ 245D.02, subds. 2b, 2c, 5a, 8a, 11(9), 15a, 15b, 23b, and 34a; 245D.04, subd. 3; 245D.06, subds 1(h) and 5; 245D.06, subds. 6, 7, and 8; 245D.061; 245D.071; 245D.091; 245D.095; 245D.10; and 245D.11; and 256B.4912, subd. 8

Various Effective Dates

1. New Requirements

Establishes new requirements prohibiting aversive and deprivation practices, including restraint and seclusion. Allows only manual restraint in defined emergencies with specific reporting requirements. Provides for training related to the use and prohibition of restrictive practices and psychotropic medications. Applies to all HCBS waiver providers licensed under Minnesota Statutes, Chapter 245D.

Effective January 1, 2014

2. Reporting

Requires providers of services for persons with developmental disabilities to report use of restraint, seclusion, and punishment practices controlled under Minnesota Rules, parts 9525.2700 to 9525.2810 to DHS beginning July 1, 2013. Also mandates other providers required to be licensed under Chapter 245D beginning in January, 2014, to report emergency use of manual restraint beginning July 1, 2013.

Effective July 1, 2013

B. Congregate Living Rate for Mental Health

Chapter 108, Article 7, Section 51 (HF 1233)

Rider language

Effective July 1, 2013

Exempts the 2011 congregate living rate reduction of 10% for people with low needs: (1) whose primary diagnosis is mental illness; and (2) who are living in a foster care setting where the license holder is: (i) certified as a mental health provider of assertive community treatment or intensive residential treatment services; or (ii) a mental health center or clinic.

C. HCBS Disability Waiver Management Improvements

1. Corporate Foster License Capacity Managed at State Level

Chapter 108, Article 7, Section 3 (HF 1233)

Amends Minn. Stat. § 245A.03, subd. 7

Effective July 1, 2013

Authorizes DHS to manage statewide corporate adult foster capacity by adjusting the number of beds available to each county to meet statewide needs identified through the resource need determination process.

2. HCBS Disability Waiver Overspending by Counties or Tribes

Chapter 108, Article 7, Sections 8 and 42 (HF 1233)

Adds Minn. Stat. §§ 256B.0916, subd. 11; and 256B.49, subd. 26

Effective July 1, 2013

Requires a county or tribe which authorizes services in excess of their state allocation to submit a corrective action plan to DHS. Allows DHS to recoup excess allocations from a tribe or county. Requires tribes and counties to continue to make feasible home and community-

based options available to eligible HCBS waiver recipients within the resources allocated for that purpose.

3. New Priorities for HCBS Disability Waivers

Chapter 108, Article 7, Sections 11 and 38 (HF 1233)

Amends Minn. Stat. §§ 256B.092, subd. 12; and 256B.49, subd. 11a

Effective July 1, 2013

Adds as two new top priorities for HCBS waiver services: (1) those who no longer require the intensity of service provided where they are currently living; and (2) those who make a request to move from an institutional setting. Authorizes DHS to transfer funds between counties, or groups of counties, and tribes to meet statewide priorities and resource needs while accommodating a base level reserve for each county, group of counties, and tribe. Provides that persons who meet existing priorities - including unstable living situation, closure of current residence, and sudden change in needs - will be considered after the two new priorities.

4. Safety Net for HCBS Waiver Programs

Chapter 108, Article 7, Section 61 (HF 1233)

Uncodified Section

Effective July 1, 2013

Requires DHS to submit a request to the federal agency for HCBS waiver amendments to modify the financial management of three disability waiver programs to include a state-administered safety net when the cost for an individual increases above an identified threshold as has been allowed as part of the waiver for persons with developmental disabilities (DD) for more than a decade. Provides that the use of the safety net may result in decreased allocations for individual counties, tribes or groups of counties or tribes, but must not result in a net decrease statewide. Applies to the following programs: (1) Community Alternatives for Disabled Individuals (CADI); (2) Brain Injury (BI); and (3) Community Alternative Care (CAC).

D. Disability HCBS Waiver Payment Methodologies

Chapter 108, Article 13, Sections 9 - 13 (HF 1233)

Adds Minn. Stat. §§ 256B.4913, subd. 4a; and 256B.4914

Effective January 1, 2014

1. New Payment Rate Methodology

Establishes a new payment rate methodology for HCBS disability waiver services. Provides for an implementation period of five years during which an individual provider's rate will not increase or decrease by more than: (1) .5% during calendar years 2014 and 2015; and (2) 1% during calendar years 2016, 2017, and 2018. Requires budget neutrality so that no more or less money will be spent for HCBS waiver services as a result of the rate payment methodology changes.

2. Stakeholder Consultation

Requires stakeholder consultation to assist in the implementation of the new rate payment system.

3. DHS Authority

Provides authority for DHS to manage the HCBS waiver programs within federally required parameters during the transition period. Requires DHS to implement any changes are required by the Centers for Medicare and Medicaid Services upon: (1) a public notice; (2) legislative advisory commission review; and (3) development of recommendations for necessary legislative changes which are to be submitted to the relevant legislative committees and chairs by January 15, 2014.

E. HCBS Waiver Crisis Diversion to Reduce Unnecessary Hospital Admissions

Chapter 108, Article 7, Sections 12 and 41 (HF 1233)

Adds Minn. Stat. §§ 256B.092, subd. 14; and 256B.49, subd. 25

Effective July 1, 2013

Provides for a functional assessment by a mental health or behavioral professional of crises for HCBS waiver participants who have had two or more admissions, within a calendar year, to a: (1) hospital emergency room; (2) psychiatric unit; or (3) state institution. Requires the result of the functional assessment to be used to amend the coordinated service and support plan and provide additional needed mental health services for those eligible who qualify for one of the disability HCBS waiver programs. Authorizes five staff to provide the crisis diversion and discharge planning.

Note: This change saves \$843,000 for 2014-2015 biennium.

F. HCBS Waiver Provider License Fee Schedule

Chapter 108, Article 8, Section 15 (HF 1233)

Amends Minn. Stat. § 245A.10

Effective January 1, 2014

Replaces Minnesota Statutes, Chapter 245B licensing fee structure with a new licensing fee structure for HCBS waiver programs licensed under Minnesota Statutes, Chapter 245D.

G. HCBS Waiver Provider Standards

Chapter 108, Articles 8 and 9 (HF 1233)

Adds Minn. Stat., Ch. 245D

Repeals Minn. Stat., Ch. 245B

Primarily January 1, 2014

Requires providers of HCBS waiver services to obtain a license to provide services to waiver program participants. Modifies Minn. Statutes, Chapter 245D to establish a consistent set of standards across all HCBS waiver programs, including:

- (1) Requiring providers with Chapter 245B licenses to switch to Chapter 245D beginning August 19, 2013;
- (2) Providing training and educational opportunities to providers and lead agencies in order to comply with new Chapter 245D requirements;
- (3) Designating DHS as lead agency for Chapter 245D licensed providers; and
- (4) Requiring joint efforts from the MDH Compliance Monitoring Division and the DHS Licensing Division to develop an integrated licensing system for providers of both home care services and HCBS waiver services.

H. HCBS Waiver Settings Density Exemption for AIDS Program

Chapter 108, Article 7, Sections 43, 50, and 53 (HF 1233)

Amends Minn. Stat. §§ 256B.492; and 256D.44

Effective July 1, 2013

Provides exceptions to the requirement that HCBS waiver funding be restricted to 25% of the units in a multifamily building of more than four and to the shelter-needy payment requirement that limits such payments to 25% of the units in the building if the exceptions are required by Housing Opportunities for Persons with AIDS Programs.

I. Shared Living Model Established in HCBS Disability Waiver Services

Chapter 108, Article 7, Section 62 (HF 1233)

Uncodified Section

Effective July 1, 2013

Authorizes DHS to develop and promote a shared living option for individuals receiving a disability HCBS waiver services who require 24-hour assistance. Provides that the companion model serve one or two individuals in a home with planned respite for the caregiver and availability of intensive training and support on the needs of the individuals served. Requires amendments to be submitted to the federal agency by December 31, 2013.

III. LONG-TERM SUPPORTS AND SERVICES CHANGES

A. Personal Care Assistant (PCA) Program

1. Community First Services and Supports (CFSS)

Chapter 108, Article 7, Section 49 (HF 1233)

Adds Minn. Stat. § 256B.85, subds. 1 - 25

Effective upon federal approval but no earlier than April 1, 2014

Reforms the PCA program under the name Community First Services and Supports (CFSS) using new federal Medicaid authority, 1915k by, among other things: (1) increasing the minimum amount of service from 30 minutes a day for persons with Level I behavior and/or one dependency in an ADL to at least 75 minutes per day and adds these categories back into the budget methodology to provide more assistance based on behavior, critical ADLs and complex health needs; (2) providing that the new CFSS include skill acquisition and enhancement; and (3) requiring maximum self-direction and allows a budget option to use CFSS funds to purchase needed goods as well as staff. Qualifies for 6% increase in federal Medicaid matching funds which was used for: (1) improvements in PCA services; (2) other long-term supports and services; (3) the Senior Linkage Line and the Disability Linkage Line; (4) at least \$2.7 million for six staff, administrative costs, operations and evaluation. Continues most other aspects of current PCA program.

2. Direct Support Staff Union Representation
Chapter 128, Article 2, Sections 1 - 5 (SF 778)
Adds Minn. Stat. §§ 179A.54; and 256B.0711
Effective July 1, 2013

Establishes requirements and processes to allow a unionization campaign for staff that provide publicly-funded, self-directed personal care and supportive services.

3. Gender Request
Chapter 63, Sections 8 and 9 (HF 767)
Amends Minn. Stat. § 256B.0659, subd. 7
Adds Minn. Stat. § 256B.0659, subd. 7a
Effective August 1, 2013

Allows PCA recipients to request a PCA of the same gender and requires that the request be added to the care plan. Requires PCA agencies to make a reasonable effort to meet the request.

B. Essential Community Supports (ECS)

Chapter 108, Article 7, Section 13 (HF 1233)
Adds Minn. Stat. § 256B.0922
Effective January 1, 2014

1. ECS

Establishes the Essential Community Supports Program (ECS) for persons age 65 and older who do not meet the level of care required for a nursing facility and are not eligible for MA. Provides up to \$400 per person per month for: (1) caregiver support; (2) homemaker support; (3) chores; (4) a personal emergency response device; (5) home-delivered meals; or (6) community living assistance as defined by DHS. Allows up to \$600 per year for service coordination as part of the person's community support plan.

2. ECS for People in Transition

Establishes the ECS for people in transition, who include people of all ages who: (1) lose eligibility for HCBS waivers due to the revised nursing facility level of care criteria; and (2) are not eligible for PCA services but have been assessed to need the services offered under the ECS program. Allows up to \$600 per person per year for case management services to be provided in conjunction with ECS transition services.

C. Home Care Licensure Changes

Chapter 108, Article 11, Sections 8 and 10 - 30 (HF 1233)

Amends Minn. Stat. § 144A.44, subd. 1

Adds Minn. Stat. §§ 144A.471 - 144.483

Effective May 24, 2013

Revises and updates the Home Care Bill of Rights and the MDH authority to regulate home care services. Establishes extensive new statutory requirements for home care providers and home care services.

D. Reform 2020

1. Reform 2020 Employment Navigation, Supports, and Benefit Planning

Chapter 108, Article 2, Section 15 (HF 1233)

Adds Minn. Stat. § 256B.021, subd. 6

Effective upon federal approval.

Establishes a demonstration project to provide navigation, employment supports, and benefit planning to persons at risk of qualifying as totally and permanently disabled to improve health and reduce applications for disability benefits.

2. Housing Stabilization under Reform 2020

Chapter 108, Article 2, Section 16 (HF 1233)

Adds Minn. Stat. § 256B.021, subd. 7

Effective upon federal approval.

Establishes new services to low-income adults with chronic health conditions who do not currently qualify for HCBS waiver services. Includes coordination assistance, tenancy support, and community living assistance.

Note: Savings are projected to be \$3.6 million for the 2014-2015 biennium if approved.

3. Oversight of Reform 2020 Contingent Provisions

Chapter 108, Article 15, Sections 3 and 4

Uncodified Section

Effective July 1, 2013

a. Submission of Contingent Provisions to MMB

Requires DHS to submit an implementation plan to Minnesota Management and Budget

(MMB) upon full or partial approval of Reform 2020 contingent provisions. Specifies that the plan include fiscal estimates which must not increase general fund appropriations for the 2014-15 biennium.

b. Adjustment of Appropriations

Requires MMB to adjust appropriations to reflect federal approval. Provides that if planning estimates for the 2016-17 biennium result in increased general fund expenditures, over the February 2013 forecast, none of the provisions in Article 2 shall be implemented.

E. Payment Changes

1. Community Services Provider Cost of Living Increase

Chapter 108, Article 7, Sections 47 and 60 (HF 1233)

Uncodified Section

Effective April 1, 2014

Provides a 1% rate increase, delayed until April 1, 2014, for community service programs including: (1) home and community waivers; (2) private duty nursing and home health services; (3) PCA services and qualified professional supervision; (4) day training and habilitation services; (5) community support services for persons who are deaf and hard of hearing with mental illness; (6) consumer-directed community supports; (7) intermediate care facilities for persons with developmental disabilities; (8) all community services provided through managed care plans; and (9) grant programs, such as: (i) living skills training for persons with epilepsy; (ii) semi-independent living services; (iii) consumer support grants; (iv) family support grants; and (v) housing access grants.

2. HCBS Waiver Quality Payment

Chapter 108, Article 7, Sections 28, 30-34 (HF 1233)

Amends Minn. Stat. § 256B.439, subd. 1

Adds Minn. Stat. § 256.439, subds. 3a, 5, 6, and 7

Effective July 1, 2013

Requires DHS to develop quality measurement criteria for HCBS waivers in consultation with stakeholders. Directs DHS, by April 1, 2014, to develop incentive-based grants for home and community-based services providers to encourage investments to improve quality. Mandates periodic consumer surveys as funding permits to update provider quality profiles. Adds an additional 1% to the community providers as a quality payment effective July 1, 2015.

3. Intermediate Care Facility/Developmental Disabilities Surcharge

Chapter 108, Article 7, Sections 5 and 46 (HF 1233)

Amends Minn. Stat. § 256.9657, subd. 3a

Adds Minn. Stat. § 256B.5012, subd. 14

Effective July 1, 2013

Increases the surcharge for Intermediate Care Facility/Developmental Disabilities (ICF/DD) beds to \$3,679 per bed and offsets the cost for the increase to the facility with a \$7.81 per day payment rate increase.

Note: This change results in state savings of \$4.6 million for the 2014-2015 biennium.

4. Nursing Facilities Rates

Chapter 108, Article 7, Sections 25, 26, and 35 - 37 (HF 1233)

Amends Minn. Stat. §§ 256B.441, subd. 44; and 256B.441, subds. 46 and 46c

Adds Minn. Stat. § 256B.434, subds. 19a and 19b

Effective September 1, 2013

Increases rates for nursing facilities by an average of 5% through a combination of an across-the-board increase and performance payments. Requires 75% of the 3.75% across-the-board increase to be paid as wage increases to nursing facility staff. Provides another 3.2% average increase July 1, 2015.

5. Repeal of Community Services Provider Rate Cut

Chapter 108, Article 7, Section 64 (HF 1233)

Repeals Laws 2011, First Special Session, Chapter 9, Article 7, Section 54, as amended by Laws 2012, Chapter 247, Article 4, Section 42 and Laws 2012, Chapter 298, Section 3

Effective July 1, 2013

Repeals the contingent community service provider and grant rate reductions of 1.67% effective July 1, 2013. Appropriates \$12.8 million to cover the cost of repealing the contingent rate reduction, which would have been in effect from July 1, 2013 to December 31, 2013.

F. Preadmission Screening Related to Nursing Facility Admissions

Chapter 108, Article 2, Sections 7, 8, 9, and 10 (HF 1233)

Adds Minn. Stat. § 256.975, subs. 7a, 7b, 7c, and 7d

Effective October 1, 2013

Simplifies preadmission screening by requiring completion of an online form with the Senior Link Age Line which identifies persons who require further evaluation and the need for specialized services due to mental illness or developmental disability. Provides specific reasons to exempt persons with mental illness or developmental disabilities from some screening requirements.

G. Private Duty Nursing Assessment Criteria

Chapter 63, Section 7 (HF 767)

Amends Minn. Stat. § 256B.0652, subd. 5

Effective August 1, 2013

Changes outdated citation for hospital level of care criteria from a Minnesota Rule to the applicable part of the Code of Federal Regulations (42 C.F.R. § 440.10).

H. Quality Assurance License System Changes, Region 10

Chapter 108, Article 7, Sections 15 - 22 (HF 1233)

Amends Minn. Stat. §§ 256B.0951, subs. 1 and 4; 256.0952, subs. 1 and 5;

256.0955; and 256.097, subs. 1 and 3

Effective July 1, 2013

Expands Region 10 variance from governing licensure of programs to include all persons with disabilities. Allows providers of service to participate in alternative quality licensing in addition to counties. Updates various provisions related to the State Quality Council.

I. Ventilator Dependent Changes for those Age 65 and Older

Chapter 108, Article 7, Section 6 (HF 1233)

Amends Minn. Stat. § 256B.0915, subd. 3a

Effective July 1, 2013

Removes the 30-day stay in a nursing facility requirement for individuals on the EW who are ventilator dependent by providing an enhanced budget immediately rather than after a 30-day stay.

IV. MEDICAL ASSISTANCE (MA) and other HEALTH CARE

A. Additional Coverage Under Emergency Medical Assistance (EMA)

Chapter 108, Article 6, Section 7 (HF 1233)

Amends Minn. Stat. § 256B.06, subd. 4

Effective July 1, 2013

Adds coverage for both HCBS waiver services through the EW for: (1) any eligible person regardless of age; (2) rehabilitative services provided in a nursing facility. Continues EMA coverage of dialysis and cancer treatment.

Note: A limited appropriation of \$2.2 million is provided for the 2014-2015 biennium.

B. Adult Rehabilitative Mental Health Services (ARMHS)

Chapter 108, Article 4, Sections 9, 16, and 28 (HF 1233)

Amends Minn. Stat. §§ 256B.0623, subd. 2; and 256B.761

Adds Minn. Stat. § 246.18, subd. 9

Effective July 1, 2013

Moves \$1.81 million from adult mental health grants to fund increased rates for ARMHS services. Allows parenting skills to be covered under ARMHS.

C. Children's Mental Health Case Management Transition

Chapter 108, Article 7, Section 7 (HF 1233)

Amends Minn. Stat. § 245.4881, subd. 1

Effective July 1, 2013

Requires continued case management services be offered to a child over age 18 who has qualified for children's mental health case management when under age 18. Mandates that a person age 18 or over must consent to the involvement of the child's parent, guardian or legal representative in the development of a transition plan.

D. Children's Therapeutic Services and Supports (CTSS)

Chapter 108, Article 4, Sections 22 - 24 (HF 1233)

Amends Minn. Stat. § 256B.0943, subds. 1, 2, and 7

Effective July 1, 2013

Adds mental health plan development, family psycho educational services and family peer specialist services to CTSS.

E. Coverage for Electronic Tablets as Communication Devices

Chapter 108, Article 6, Section 12 (HF 1233)

Amends Minn. Stat. § 256B.0625, subd. 31

Effective July 1, 2013

Provides MA coverage for electronic tablets under the category of durable medical equipment if the electronic tablet is: (1) to be used as an augmentative and alternate communication system; and (2) locked to prevent any other use of the tablet.

F. Dental Coverage for Persons with Disabilities

Chapter 108, Article 6, Section 8 (HF 1233)

Amends Minn. Stat. § 256B.0625, subd. 9

Effective July 1, 2013

Adds coverage for: (1) house calls and care facility dental visits; (2) extra payments when behavioral supports are needed instead of sedation, or oral or IV sedation in a clinic as an alternative to hospitalization or surgical center procedure; and (3) up to four dental cleanings (prophylaxis) per year if treatment plan requires it.

G. Early Hearing Detection and Intervention Program

Chapter 108, Article 3, Sections 4 and 12; and Article 12, Sections 14 and 34 - 36 (HF 1233)

Amends Minn. Stat. §§ 256.969; 144.125, subd.1 (d); and 144.966, subds. 2, 3a, and 3

Effective July 1, 2013

Adds early hearing detection and intervention program to newborn screening requirements and increases the related fee. Provides funding to cover the increased fee under MA and MNCare. Adds deaf and hard-of-hearing mentors to family support services.

H. Family Peer Mental Health Specialist

Chapter 108, Article 4, Section 15 (HF 1233)

Adds Minn. Stat. § 256B.0616

Effective July 1, 2013

Establishes a new mental health certified family peer specialist within the MA program for persons who have an emotional disturbance or severe emotional disturbance under the children's mental health requirements. Requires family peer specialists to: (1) have raised a child with mental illness; (2) have had experience with the children's mental health service system; (3) be at least age 21; and (4) have a high school diploma.

I. Family Psycho-educational Services

Chapter 108, Article 4, Section 19 (HF 1233)

Adds Minn. Stat. § 256B.0625, subd. 61

Effective July 1, 2013 or upon federal approval, whichever is later

Adds family psycho-educational services to the MA program for children up to age 21 with a diagnosis of a mental health condition if required by the child's individual treatment plan. Requires that a licensed mental health professional or a clinical trainee determine medical necessity to involve family members in the child's care.

J. Federal Request for Disregard of Spousal Income and Assets

Chapter 108, Article 7, Section 55 (HF 1233)

Uncodified Section

Effective July 1, 2013

Requires DHS to request federal authority to continue current MA policy with respect to persons under age 65 for the treatment of income and assets for the non-assisted spouse rather than apply the spousal impoverishment protection provisions required under the Affordable Care Act.

K. Hospital In-reach Community-based Service Coordination for Youth

Chapter 108, Article 4, Section 18 (HF 1233)

Amends Minn. Stat. § 256B.0625, subd. 56

Effective July 1, 2013

Provides community-based services coordination through a hospital for children and young adults who have been: (1) in a hospital emergency room at least twice in three months; or (2) admitted to an inpatient psychiatric unit at least two times in four months. Includes assistance with: (1) community services; (2) housing; (3) family supports; and (4) other needs.

L. Intensive Mental Health Treatment in Foster Care

Chapter 108, Article 4, Section 26 (HF 1233)

Amends Minn. Stat. § 256B.0946

Effective August 1, 2013

Amends mental health treatment in foster care to, among other things: (1) require intensive services; and (2) provide definitions, including clinical supervision, crisis assistance, and client eligibility requirements. Establishes new service delivery payment requirements and a list of excluded services.

M. Medical Assistance for Employed Persons with Disabilities (MA-EPD)

Chapter 63, Sections 5 and 6 (HF 767)

Amends Minn. Stat. § 256B.056, subd. 3; 256B.057, subd. 9

Various Effective Dates

1. Enrollment Prior to Turning 65

Removes the requirement that MA-EPD enrollees be enrolled in the program for at least 20 of 24 months prior to the enrollee turning age 65 in order for the individual to continue to be eligible for MA-EPD after age 65. Clarifies that the language only applies to individuals who turned age 65 during calendar years 2012 or 2013.

Amends Minn. Stat. § 256B.056, subd. 3

Effective January 1, 2014

2. Requirement to Send Monthly Mailings to Enrollees

Removes the requirement that DHS send monthly mailings to MA-EPD enrollees who are turning 63 or 64 informing them that the program ends at age 65.

Note: The requirement is unnecessary since the program now allows persons who turn age 65 to continue due to changes made in 2012.

Amends Minn. Stat. § 256B.057, subd. 9

Effective August 1, 2013

N. Mental Health Adult Case Management Eligibility Criteria

Chapter 108, Article 4, Section 1 (HF 1233)

Amends Minn. Stat. § 245.462, subd. 20

Effective July 1, 2013

Adds the diagnosis of schizoaffective disorder and adults who were eligible as a child for children's mental health case management as additional criteria qualifying for adult mental health case management, if other criteria are met.

O. Mental Health Clinical Care Coordination

Chapter 108, Article 4, Section 20 (HF 1233)

Adds Minn. Stat. § 256B.0625, subd. 62

Effective July 1, 2013 or upon federal approval, whichever is later

Provides for MA coverage of clinical care coordination for persons up to age 21 diagnosed with a complex mental health condition or co-occurring mental health and other complex or chronic

conditions if: (1) described in the individual treatment plan; and (2) provided by a properly licensed mental health professional or clinical trainee.

P. Mental Health Crisis Services Funding Increase

Chapter 108, Article 14, Section (HF 1233)

Appropriation

Effective July 1, 2013

Funds an increase in adult and children's mental health crisis teams to additional counties and tribes with \$1.5 million for the coming biennium.

Q. Nonemergency Medical Transportation (NEMT) Changes

Chapter 81, Sections 7, 8, and 9 (SF 654)

Amends Minn. Stat. § 256B.0625, subds, 17, 18e, and 18f

Effective August 1, 2013

Imposes prior authorization requirements on NEMT services for trips that exceed 30 miles to a primary care provider or 60 miles for a specialty care provider. Delays the implementation of a single administrative structure and delivery system for NEMT to July 1, 2014. Directs DHS to require the administrator of NEMT to follow the assessment process recommended by the NEMT Advisory Committee, which is to be implemented by July 1, 2014.

R. Rehabilitative Services Prior Authorization Requirement Modified

Chapter 81, Sections 4, 5, 6, and 10 (SF 654)

Amends Minn. Stat. § 256B.0625, subds. 8, 8a, 8b, and 25

Effective August 1, 2013

Changes prior authorization requirements for physical therapy, occupational therapy and speech pathology and audiology services. Eliminates prior authorization requirements except for certain providers which must continue to obtain authorization before services will be covered by MA. Requires the publication of criteria and standards to determine which providers must obtain prior authorization for their clients. Provides that such criteria and standards will not impede access to rehabilitative services for any group of individuals with unique or special needs due to disability or functional condition. No cost or savings.

S. School-linked Mental Health Grants

Chapter 108, Article 14, Section 2, subd. 6 (HF 1233)

Appropriation

Effective July 1, 2013

Appropriates \$7.434 million for the 2014-2015 biennium and \$9.8 million for the following biennium for school-linked mental health grants, a substantial increase.

Note: This appropriation will increase the number of school districts and regions providing school-linked mental health services.

V. PARENT FEES

A. Elimination of Fee for Households under 275% FPG

Chapter 108, Article 3, Section 22 (HF 1233)

Amends Minn. Stat. § 252.27, subd. 2a

Effective January 1, 2014

Eliminates parent fees for MA Tax Equity and Fiscal Responsibility Act (TEFRA) for children from households under 275% FPG consistent with Minnesota's new household income eligibility level for children under the Affordable Care Act.

Note: Because one-half of the fees paid must go to the federal government, this change results in \$1.3 million cost for the state but \$2.6 million savings per year for parents who no longer have to pay the fee for their children.

B. Repeal of Extension of Increase Adopted in 2011

Chapter 108, Article 3, Section 22 (HF 1233)

Amends Minn. Stat. § 252.27, subd. 2j

Effective July 1, 2013

Repeals an extension of 2011 parent fee increase for families beginning at 175% FPL. Appropriates \$469,000 for this purpose, resulting in \$940,000 in savings for families paying parent fees.

VI. PROGRAMS FOR EMPLOYMENT

A. Employment Support Services for Persons with Mental Illness

Chapter 85, Article 1, Section 3 and Article 3, Sections 20 and 21 (HF 729)

Amends Minn. Stat. §§ 245.4712, subd. 1; 268A.13; and 268A.14, subd. 1

Effective July 1, 2013

Appropriates a one-time \$1 million increase for employment support services for persons with mental illness to ensure that employment supports assist in finding and maintaining competitive employment, are integrated with mental health treatment and include evidence-based practices such as rapid job search.

B. Pilot Program for Persons with ASD

Chapter 85, Article 1, Section 3 and Article 3, Section 23 (HF 729)

Uncodified Sections

Effective July 1, 2013

Provides a one-time \$68,000 grant to Olmsted County for a pilot program for employment support and independent living services, including education, outreach, and supports for area employers to encourage hiring and promotion of workers with ASD. Emphasizes: (1) competitive employment; (2) workplace inclusion; (3) skill development; and (4) self-direction.

C. Vocational Rehabilitation

Chapter 85, Article 1, Section 3 (HF 729)

Appropriation

Effective July 1, 2013

Increases funding for vocational rehabilitation by \$1 million per year.

VII. STATE-OPERATED SERVICES

A. Community Transition Initiative

Chapter 108, Article 4, Sections 14, 21, and 27 (HF 1233)

Adds Minn. Stat. §§ 256.478; 256B.092, subd. 13; and 256B.49, subd. 24

Effective July 1, 2013

Provides transition grants for home and community-based services for individuals not eligible for MA under specific criteria but who qualify for HCBS waiver services for persons with

developmental disabilities or persons eligible for the CADI or BI waiver programs. Provides for a moratorium exception for these individuals ready for discharge from Anoka Metro Regional Treatment Center (AMRTC) or the Minnesota Security Hospital (MSH) in St. Peter provided the persons have met treatment objectives and no longer need a hospital level of care. Provides additional waiver allocations to serve qualified individuals.

B. County Cost Increase for AMRTC and MHS Residents

Chapter 108, Article 4, Section 10 (HF 1233)

Amends Minn. Stat. § 246.54, subds. 1 and 2

Effective July 1, 2013

Increases the county percentage of the cost of care for county residents who: (1) have completed treatment at the AMRTC; and (2) are ready to be discharged from 50% to 75% for any days over 60. Imposes an increased share of the cost of care from 10% to 50% for county residents in the MSH forensic transition service for each day the client spends in the program. Raises \$1.9 million due to the increased payments for persons at AMRTC and \$6.3 million for clients at the MSH which results in a total savings to the state of \$8.2 million for the biennium.

C. Intensive Residential Treatment Services (IRTS)

Chapter 108, Article 4, Sections 8 and 9 (HF 1233)

Amends Minn. Stat. § 246.18, subd 8

Adds Minn. Stat. § 246.18, subd. 9

Effective July 1, 2013

Provides funds to allow private IRTS providers to develop services to meet the complex needs of persons with mental illnesses and other health care needs to transition out of AMRTC. Funds the continued operation of the IRTS state-operated program in Willmar.

VIII. STUDIES, REPORTS, AND WORK GROUPS

A. Asset Limit for Persons with Disabilities and Seniors Recommendations

Chapter 108, Article 7, Section 56 (HF 1233)

Uncodified Section

Effective July 1, 2013

Directs DHS to consult with interested stakeholders to develop recommendations and a request for an 1115 Medicaid demonstration waiver in order to increase the asset limit for individuals eligible

for MA due to disability or age who are not residing in institutional services. Requires recommendations to the relevant legislative committees by February 1, 2014.

B. Assistive Technology for HCBS Waiver Participants

Chapter 108, Article 7, Section 15 (HF 1233)

Uncodified Section

Effective July 1, 2013

Directs DHS to: (1) develop recommendations for assistive technology funding for HCBS waiver participants on appropriate assistive technology equipment, use of monitoring services, whether or not leasing is an alternative to purchasing and use of ongoing support services; and (2) the report to relevant legislative chairs by February 1, 2014.

C. Case Management Reform Recommendations

Chapter 63, Section 19 (HF 767)

Uncodified Section

Effective August 1, 2013

Requires DHS to develop further recommendations for proposed legislation regarding redesign of case management services, including provisions to: (1) increase choice of case manager; (2) define case management services; (3) provide caseload size guidance; (4) propose statewide standards for case management with reporting measures on outcomes; and (5) establish rates and (6) develop information for case management recipients. Directs DHS to submit recommendations and proposed legislation to the relevant legislative committees by February 1, 2014.

D. Child and Adolescent Behavioral Health Services Recommendations

Chapter 108, Article 4, Section 29 (HF 1233)

Uncodified Section

Effective July 1, 2013

Directs DHS to consult with interested stakeholders to develop recommendations and legislation if necessary, for state-operated child and adolescent behavioral health services facility. Requires the facility and services to meet the needs of children with: (1) serious emotional disturbances; (2) ASD; (3) reactive attachment disorder; (4) post-traumatic stress disorder (PTSD); (5) serious emotional disturbance co-occurring with developmental disability; (6) borderline personality disorder; (7) schizophrenia; (8) fetal alcohol spectrum disorders; (9) brain injuries; (10) violent tendencies; and (11) complex medical issues.

E. Concentration Limits for HCBS Waiver Settings Recommendations

Chapter 108, Article 7, Section 53 (HF 1233)

Uncodified Section

Effective July 1, 2013

Directs DHS to: (1) consult with the Minnesota Olmstead Subcabinet and other stakeholders regarding concentration limits for HCBS waiver settings defined in Minn. Stat. § 256B.492; and (2) submit recommendations to the relevant legislative committees by February 1, 2014.

F. Group Residential Housing (GRH) Study

Chapter 108, Article 3, Section 47 (HF 1233)

Uncodified Section

Effective July 1, 2013

Requires DHS to review the status of GRH beds with rates in excess of the Minnesota Supplemental Aid equivalent rate, including banked supplemental service rate beds. Provides that a rate setting and GRH bed use plan be developed by DHS and presented to the relevant legislative committees no later than February 1, 2014.

G. HCBS Licensing Fees and Maltreatment Investigations Report

Chapter 108, Article 8, Section 59 (HF 1233)

Uncodified Section

Effective July 1, 2013

Requires DHS to: (1) report to the relevant legislative committees by July 1, 2015 on license and maltreatment investigation costs in relation to fees collected; and (2) recommend changes to reduce costs.

H. Long-Term Care Services and Supports Gaps Analysis and Critical Access Study

Chapter 108, Article 2, Section 2 (HF 1233)

Amends Minn. Stat. § 144A.351 Subd 1 and 2

Effective upon federal approval

1. Funding for Long-Term Care Services and Supports Report

Provides ongoing funding for the long-term care services and supports biennial gaps analysis next due August 15, 2014.

2. Study

Requires a one-time study to assess critical access at the community level and local capacity of HCBS services for older adults, persons with disabilities, including those with mental illnesses. Provides funding for the Critical Access Study to be submitted no later than August 15, 2015.

I. Mental Health Work Force Development Plan

Chapter 99, Article 2, Section 28 (SF 1236)

Uncodified Section

Effective May 25, 2013

Requires the Board of Trustees of the Minnesota State Colleges and Universities, in cooperation with DHS, to convene a summit of representatives, including: (1) state colleges and universities; (2) the University of Minnesota; (3) private colleges; (4) mental health professionals; (5) special education experts ; (6) children and adult mental health advocates; and (7) providers and community mental health centers. Specifies the purpose of the summit is to develop a comprehensive work force development plan to: (1) increase the number of mental health professionals and practitioners; (2) assure adequate coursework and training is available; and (3) increase the number of culturally diverse mental health professionals and practitioners. Requires the plan to be submitted to the Health and Human Services and Higher Education Committees by January 15, 2015.

J. Mentally Ill and Dangerous Commitment Stakeholder Group

Chapter 108, Article 4, Section 31 (HF 1233)

Uncodified Section

Effective July 1, 2013

Requires DHS - in consultation with the state court administrator and with input from a stakeholder group - to develop recommendations in five specific areas with to address issues listed in the February 2013 Office of Legislative Auditor's report on state-operated services to be submitted to relevant legislative committees by January 15, 2014.

K. Need Determination Report Date Change

Chapter 108, Article 7, Section 3 (HF 1233)

Amends Minn. Stat. § 245A.03, subd. 7(e)

Effective July 1, 2013

Changes the annual need determination report due date to August 1, beginning in 2014.

Note: The new date now coincides every other year with the biennial Gaps Analysis required under Minn. Stat. § 144A.351.

L. Nursing Facility Level of Care Report

Chapter 108, Article 7, Section 58 (HF 1233)

Uncodified Section

Effective July 1, 2013

Requires DHS to report on the impact of nursing facility level of care changes effective January 1, 2014, including: (1) the number of individuals who lose eligibility for HCBS waivers for persons with disabilities and seniors and the alternative care program; and (2) the number of individuals who lose eligibility for MA. Requires a preliminary report by October 1, 2014 and a final report by February 15, 2015 to the House and Senate Health and Human Services Policy and Finance Committees.

IX. VULNERABLE ADULT PROTECTION

A. Complaints by Vulnerable Adults Against HMOs and Nursing Homes

Chapter 43, Sections 2 and 17 (SF 887)

Amends Minn. Stat. §§ 62Q.106; and 144A.53, subd. 2

Effective August 1, 2013

1. Health Maintenance Organizations (HMOs)

Directs MDH - when investigating a complaint filed against an HMO regarding a vulnerable adult -- to interview at least one family member of the complainant or the subject vulnerable adult. Requires MDH to note in the file if the complainant or subject does not want any family members to be interviewed.

Amends Minn. Stat. §§ 62Q.106

2. Nursing Homes

Requires Investigators - when investigating a complaint filed with the Minnesota Office of Health Facility Complaints against a nursing home regarding a vulnerable adult - to interview at least one family member of the subject vulnerable adult. Requires a note be made in the file if the vulnerable adult is directing his/her own care and does not want the investigator to contact the family. Requires that complainants receive copy of the completed report.

Amends Minn. Stat. §§ 144A.53, subd. 2

B. Financial Exploitation

Chapter 5 (HF 90)

Adds Minn. Stat. § 609.2335, subds. 4 and 5

Various Effective Dates

1. Aggregation

Permits the aggregation of the value of money or property or services received by a defendant within any six-month period. Allows the defendant to be prosecuted in any county in which an offense was committed, if offenses were committed in more than one county.

Note: This provision then permits the penalty to be imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both, as provided under Minn. Stat. § 609.2335, subd. 3.

Adds Minn. Stat. § 609.2335, subd. 4

Effective August 1, 2013, and applies to crimes committed on or after that date.

2. Venue

Provides that, notwithstanding Minn. Stat. § 627.01, an offense committed governed by the new provisions may be prosecuted in: (1) the county where any part of the offense occurred; or (2) the county of residence of the victim or one of the victims.

Adds Minn. Stat. § 609.2335, subd. 5

Effective August 1, 2013

C. Guardianship and Conservatorship -- Uniform Probate Code Changes

1. Background Studies Prior to Appointment of Guardian or Conservator

Chapter 86, Article 2, Section 2 (SF 671)

Amends Minn. Stat. § 524.5-118, subd. 1

Effective August 1, 2013

a. Pre-Appointment Background Study

Requires a pre-appointment background study if one has not been conducted within the previous two years.

Note: Current law provides that no background study need be conducted prior to an appointment if one has been conducted within the previous five years.

Amends Minn. Stat. § 524.5-118, subd. 1(a)(1)

b. Post-Appointment Background Study

Shortens the period from every five years to every two years that a post-appointment background study must be conducted.

Amends Minn. Stat. § 524.5-118, subd. 1(a)(2)

c. Criminal History Search

Extends the look-back period for criminal history data where the guardian or conservator has not resided in Minnesota from five to ten years.

Amends Minn. Stat. § 524.5-118, subd. 1(b)(2)

d. Prior Licensing Sanction

Requires a search of state licensing agency data to determine if a professional license has been ever been conditioned, suspended, revoked, or canceled.

Add Minn. Stat. § 524.5-118, subd. 1(b)(2)

e. Appointment Before Background Check

Provides that background study must be completed as soon as reasonably possible after appointment, but no later than 30 days after appointment in cases where the court determines that it would be in the best interests of the protected person to appoint a guardian or conservator before the background study can be completed.

Amends Minn. Stat. § 524.5-118, subd. 1(d)

2. Appointment of Guardian of Incapacitated Persons

Chapter 86, Article 2, Sections 4 and 5 (SF 671)

Amends Minn. Stat. §§ 524.5-303; and 524.5-316

Effective August 1, 2013

a. Petition for Incapacity and Guardianship

1) Information Required for Certain Employees of Guardians

Adds that the information required to support the petition for appointment of the guardian must also be supplied for any employee of the guardian responsible for exercising powers

and duties under the guardianship.
Amends Minn. Stat. § 524.5-303(c)

2) Additional Information Required

Requires disclosures of whether the proposed guardian or applicable employee has: (1) ever held any professional agency licenses and the status (e.g., active, suspended; revoked); (2) ever been found civilly liable in an action that involved fraud, misrepresentation, material omission, misappropriation, theft, or conversion; (3) ever filed for or received bankruptcy protection; (4) outstanding judgments; (5) ever been the subject of an order for protection or harassment restraining order; and (6) ever been convicted of greater than a petty crime.

Amends Minn. Stat. § 524.5-303(c)

b. Monitoring Reports

Requires the guardian to report, in addition to annually, certain reportable events within 30 days of its occurrence. Grants the court the authority to decline to appoint or remove the guardian for lack of compliance with any reporting requirements.

Amends Minn. Stat. § 524.5-316

3. Appointment of Conservator or Protective Order

Chapter 86, Article 2, Sections 6 and 7 (SF 671)

Amends Minn. Stat. §§ 524.5-403; and 524.5-420

Effective August 1, 2013

a. Petition for Appointment of Conservator or Protective Order

1) Information Required for Certain Employees of Guardians

Adds that the information required to support the petition for an appointment of the conservator must also be supplied for any employee of the conservator responsible for exercising powers and duties under the conservatorship.

Amends Minn. Stat. § 524.5-403(d)

2) Additional Information Required

Requires disclosures of whether the proposed guardian or applicable employee has: (1) ever held any professional agency licenses and the status (e.g., active, suspended; revoked); (2) ever been found civilly liable in an action that involved fraud, misrepresentation, material omission, misappropriation, theft, or conversion; (3) ever filed for or received bankruptcy protection; (4) outstanding judgments; (5) ever been the

subject of an order for protection or harassment restraining order; and (6) ever been convicted of greater than a petty crime.

Amends Minn. Stat. § 524.5-403(d)

b. Monitoring Reports

Requires the conservator to report, in addition to annually, certain reportable events within 30 days of its occurrence. Grants the court the authority to decline to appoint or remove the conservator for lack of compliance with any reporting requirements.

Amends Minn. Stat. § 524.5-420

D. Vulnerable Children and Adults Funding Formula

Chapter 108, Article 3, Section 34

Amends Minn. Stat. § 256 M. 40, subd. 1

Effective July 1, 2013

Requires DHS to seek public input and review before proposing any changes to the current funding formula.

E. Vulnerable Adult Maltreatment Reporting

Chapter 108, Article 2, Sections 41 - 43 (HF 1233)

Amends Minn. Stat. § 626.557, subds. 4, 9, and 9c

Effective July 1, 2014 and contingent upon federal approval

Replaces current county-designated common entry points system by creating a statewide common entry point for reporting suspected maltreatment by toll-free number and Web-based reporting. Requires a public outreach campaign to raise awareness of maltreatment of vulnerable adults and educate the public on new reporting requirements and the common entry point.

X. MISCELLANEOUS DISABILITY-RELATED LEGISLATION

A. Advocating Change Together Funding

Chapter 108, Article 14, Section 2 (HF 1233)

Rider language

Effective July 1, 2013

Provides Advocating Change Together a grant of \$310,000 for Fiscal Year 2014 to provide self-advocacy training and supports for persons with intellectual and developmental disabilities throughout the state.

B. Disability Terminology Updated

Chapter 59, Article 3 (HF 969) and Chapter 62 (SF 760)

Amends 51 sections of statute and 38 rule parts

Effective August 1, 2013

Removes offensive terminology and updates language referring to persons with various types of disabilities, as required by the Jensen settlement.

Note: The Jensen Settlement refers to the settlement of a complaint filed on behalf of several Plaintiffs against the Minnesota Department of Human Services and the former director and clinical director of the Minnesota Extended Treatment Options (METO) program, located in Cambridge, Minnesota, alleging that the residents of the program were unlawfully and unconstitutionally secluded and restrained.

C. Fetal Alcohol Syndrome Outreach Funding

Chapter 108, Article 14, Section 2, Subdivision 6(n) (HF 1233)

Rider language

Effective July 1, 2013

Provides \$180,000 each year for the coming biennium, one time, for the Minnesota organization on fetal alcohol syndrome to provide outreach prevention programs in Olmstead County.

D. Service Animals Used by Persons with Disabilities

Chapter 14 (SF 1086)

Amends Minn. Stat. § 363A.19

Effective August 1, 2013

Deletes language in the Minnesota Human Rights Act (HRA) limiting the prohibition against discrimination in public accommodations if the animal "can be properly identified as being from a recognized program which trains service animals." Strengthens the HRA by making it consistent with the Americans with Disabilities Act, which does not provide for a business owner, manager, or operator to deny entry based on a determination that the service animal is not from a recognized training program or the inability to determine whether if the service animal is from a recognized training.

E. Sick Leave

Chapter 87, Section 1 (SF 840)

Amends Minn. Stat. § 181.9413

Effective August 1, 2013

Expands sick leave benefits to include caring for: (1) an adult child; (2) a spouse; (3) a sibling; (4) a parent; (5) a grandparent; or (6) a stepparent. Clarifies that a "child" includes: (1) biological children; (2) stepchildren; (3) adopted children; and (4) foster children. Prohibits an employer from limiting the use of personal sick leave benefits to less than 160 hours in any 12 month period.

Requires a report to Legislature by August 1, 2014 on the impact of this change on sick leave usage by state employees.

F. Suicide Prevention Text Message Program

Chapter 108, Article 14, Section 2, subdivision 6 (HF 1233)

Rider language

Effective July 1, 2013

Appropriates \$625,000 for each year of the coming biennium as grant to a nonprofit organization to operate a statewide text message suicide prevention program for youth.

G. Voting

Chapter 131, Article 1, Sections 1 - 4 (HF 894)

Amends Minn. Stat. §§ 5B.06; 203B.02, subd. 1; and 203B.04, subds. 1 and 5

Effective January 1, 2014 for elections beginning with the state primary August 12, 2014

Removes requirements for voter to state a qualifying reason for being unable to vote in person on election day. Allows absentee voting for all eligible voters and provides for registration as a permanent absentee voter to have ballots automatically mailed before each election.

XI. LAWS PASSED IN PREVIOUS SESSIONS THAT GO INTO EFFECT IN 2013 OR 2014

A. Laws Effective in 2013

1. Relative PCA Rate Cut Removed

Laws of Minnesota 2011, First Special Session, Chapter 9, Article 7, Sections 10 and 11 (HF 25)

Amends Minn. Stat. § 256B.0659, subds. 11 and 28

The 2011 20% relative PCA rate cut will not be imposed due to a court decision holding the provision unconstitutional and a decision DHS Commissioner Jesson, not to appeal the court's ruling. The cost of about \$21 million for the coming biennium resulting from not imposing this cut was accounted for in the February 2013 Forecast. Removes the 20% rate cut scheduled to go into effect July 1, 2013.

2. Return of .5% Cut Made in 2011 to Community Service Providers

Laws of Minnesota 2011, First Special Session, Chapter 9, Article 7, Sections 45 and 51 Effective July 1, 2013

Restores a 0.5% rate cut to community service providers, grants and Intermediate Care Facility/Developmental Disabilities (ICF/DD) facilities, except day training and habilitation providers which were not subject to the 0.5% in 2011.

B. Laws Effective in 2014

1. MA-EPD Premium and Out-of-Pocket Increases

2011 First Special Session, Chapter 9, Article 7, Section 7 (HF 25)

Amends Minn. Stat. § 256B.057, subd. 9

Effective January 1, 2014 for adults age 21 and older and October 1, 2019 for children age 16 to 21

Increases out-of-pocket costs for MA-EPD participants by: (1) raising premiums from \$35 per month minimum to \$65 per month; and (2) increasing the unearned income cost share obligation from .5 to 5%.

Note: Increased fees will average more than \$750 per year per person when fully implemented. Increases were adopted during the 2011 First Special Session, but their effective date was delayed due to maintenance of effort requirements under the Affordable Care Act.

2. Nursing Facility Level of Care Changes

Laws of Minnesota 2009, Chapter 79, Article 8, Sections 1 - 5, 16, 32 - 37, 39 - 44, 48 and 65 - 67 (HF 1362)

Amends Minn. Stat. § 144.0724

Effective January 1, 2014

Tightens eligibility for nursing facility level of care, EW, CADI and BI HCBS waiver services.

Note: This change is projected to result in the termination of eligibility for about 11,000 EW participants and 500 CADI participants during 2014.

DOMESTIC ABUSE

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I. ORDERS FOR PROTECTION AND DOMESTIC ABUSE NO CONTACT ORDERS - VENUE

Chapter 47, Sections 2 and 6 (HF 1400)

Adds Minn. Stat. §§ 518B.01, subd. 14a; and 629.75, subd. 2a

Effective August 1, 2013

Extends venue for hearing Orders for Protection (OFP) or Domestic Abuse No Contact Orders (DANCO) to: (1) the jurisdiction of the victim's designated address, if the victim participates in the Safe at Home address confidentiality program established under Minnesota Statutes, Chapter 5B; (2) the location where any call is made or received; or (3) in the case of wireless, electronic, or other technology-based communication, where the actor or victim resides.

II. OFFENSES - ELEMENTS

Note: This section highlights various definitions and elements of domestic violence-related offenses that were amended in the 2013 session.

A. Definition of "Violent Crime"

Chapter 34, Section 4 (SF 769)

Amends Minn. Stat. § 611A.036, subd. 7

Effective August 1, 2013

Adds crime of stalking to definition of "violent crime" within employer retaliation statute.

Note: This addition expands the protections of the statute requiring employers to allow victims and the victim's immediate family members reasonable time off from work to attend criminal proceedings.

B. Order Violations - Enhanced Penalties

Chapter 47, Sections 1, 4, and 5 (HF 1400)

Amends Minn. Stat. §§ 518B.01, subd. 14; 609.748, subd. 6; and 629.75, subd. 2

Effective August 1, 2013

Deletes the term "knowingly" from the offense of violation of: (1) an Order for Protection; (2) a Harassment Restraining Order; or (3) a Domestic Violence No Contact Order.

Note: As a result of this change, a person is guilty of violating the order and subject to enhanced penalties if the person: (1) was aware of the existence of the order; and (2) committed an act in violation. There is no requirement to show that the person "knowingly committed an act in violation of the order."

C. Prior Offenses - Family or Household Member

Chapter 47, Section 3 (HF 1400)

Amends Minn. Stat. § 609.2242, subd. 2

Effective August 1, 2013

Deletes the requirement that to enhance a subsequent offense a previous qualified domestic violence-related offense must have been committed against a family or household member.

D. Admissibility - Similar Conduct

Chapter 47, Section 7 (HF 1400)

Amends Minn. Stat. § 634.20

Effective August 1, 2013

Expands admissibility beyond only prior "similar" conduct against the current victim or a family or household member.

Note: The result of this change means that prior domestic conduct (whether similar or not) against the victim or family or household member will be admissible, unless, as provided under existing law, its probative value is outweighed by "the danger of unfair prejudice, confusion of the issue, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence."

III. CRIME VICTIM NOTIFICATION DATA

Chapter 34, Sections 1, 2, 8, and 10 (SF 769)

Amends Minn. Stat. §§ 13.871, subd. 5; 629.72, subd. 6; and 629.73

Adds Minn. Stat. § 13.854

Effective August 1, 2014

Classifies as private data a victim's: (1) identifying information; (2) requests for notification; and (3) provision of notification regarding the release of a person held in custody.

EMPLOYMENT LAW

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I. "BAN THE BOX"

Chapter 61 (SF 523)

Amends Minn. Stat. §§ 181.53; 181.981, subd. 1; 364.021; 364.06; 364.09; and 364.10

Effective January 1, 2014

A. Conditions Precedent to Employment

Prohibits any employer (whether public or private) from requiring as a condition precedent to employment any written statement regarding a criminal conviction.

Amends Minn. Stat. § 181.53

B. Disclosure of Criminal Records in Applications for Private Employment

Prohibits private employers from requiring an applicant to disclose or to check a box on an application indicating criminal record or history. Allows a private employer to inquire about and consider an applicant's criminal record or history: (1) once the applicant has been selected for an interview; or (2) if there is not an interview, before a conditional offer of employment is made.

Note: Public employers are already prohibited from inquiring about criminal history prior to an interview or offer of employment.

Amends Minn. Stat. § 364.021

C. Exceptions

Provides that the new provisions banning inquiries on applications do not supersede any legal requirement to conduct a criminal history background investigation or consider criminal history records in hiring for particular types of employment. Note: Nothing in the new law limits the exemptions currently found in statute for various types of employment (e.g., law enforcement).

Amends Minn. Stat. § 364.09

D. Remedies for Violation

Authorizes the Department of Human Rights to investigate violations and impose penalties, the magnitude of which range from warnings to up to \$2,000 per month in fines, depending on: (1) when the violation occurred; (2) the number of employees; and (3) the number of violations.

Amends Minn. Stat. § 364.06

E. Limitation on Civil Rights Actions

Provides that only public employers are subject to civil rights actions for violations.

Amends Minn. Stat. § 364.10

II. SICK LEAVE

Chapter 87, Section 1 (SF 840)

Amends Minn. Stat. § 181.9413

Effective August 1, 2013

Expands sick leave benefits to include caring for: (1) an adult child; (2) a spouse; (3) a sibling; (4) a parent; (5) a grandparent; or (6) a stepparent. Clarifies that a "child" includes: (1) biological children; (2) stepchildren; (3) adopted children; and (4) foster children. Prohibits an employer from limiting the use of personal sick leave benefits to less than 160 hours in any 12 month period. Requires a report to Legislature by August 1, 2014 on the impact of this change on sick leave usage by state employees.

FAMILY LAW

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I. CHILD SUPPORT - CASE CLOSURE FOR UNCOLLECTIBLE ARREARS

Chapter 108, Article 3, Section 41 (HF 1233)

Amends Minn. Stat. § 518A.60

Effective July 1, 2013

A. Conditions of Case Closure

Permits child support (IV-D) case closure by the county if: (1) the case is arrears-only; (2) arrears owed are under \$500; (3) there have been no collections in three years; and (4) all administrative remedies have been attempted or determined to be fruitless because the obligor has no income or assets, and there is no reasonable prospect for future payments.

B. Notices

Requires counties to notify obligees and obligors: (1) that the case will be closed; (2) of their respective rights. Requires notice must be sent: (1) at least 60 days prior to case closure; (2) by mail; and (3) to the obligee or obligor's last known address. Requires a second notice to be mailed to the obligee at the obligee's last known address seven calendar days after the first notice is mailed.

C. Conditions for Maintaining or Reopening Case

Provides that the case: (1) must remain open if the obligee responds to a notice with information that could reasonably lead to collection; and (2) may be reopened at the obligee's request and reapplication for services if a change of circumstances provides a reasonable chance of collection.

II. FAMILY REUNIFICATION ACT

Chapter 30 (SF 422)

Amends Minn. Stat. § 260C.101, subd. 2

Adds Minn. Stat. § 260C.329

Effective August 1, 2013

Note: This Act establishes a statutory procedure for, in limited circumstances the physical and legal reunification of parent and child.

A. Key Definition

Defines the term "reestablishment of the legal parent and child relationship" (reestablishment) to mean: (1) the physical reunification of a child under state guardianship and a previously terminated legal parent; and (2) the restoration of all rights, powers, privileges, immunities, duties, and obligations that were severed and terminated by the court.

Adds Minn. Stat. § 260C.329, subd. 2

B. Limitation of Who Can Bring Petition for Restoration of Rights

Limits the right to bring a petition for reestablishment to only the county attorney.

Adds Minn. Stat. § 260C.329, subd. 3

C. When Petition May Be Brought

Provides that a petition may be brought only if: (1) both the county social services agency and the county attorney agree that reestablishment is in the child's best interests; (2) the parent has corrected the conditions that led to an order terminating parental rights; (3) the parent is willing and has the capability to provide day-to-day care and maintain the health, safety, and welfare of the child; (4) the child has been in foster care for at least 36 months; (5) the child is at least 15 years of age; and (6) the child has not been adopted and is not the subject of an adoption placement agreement.

Adds Minn. Stat. § 260C.329, subd. 3

D. Circumstances Under Which a Petition May Not Be Brought

Prohibits the county attorney from bringing a petition for reestablishment if the parent has: (1) previously had parental rights terminated based on a finding in a legal proceeding of either sexual abuse or other conduct that resulted in the death of a minor; or (2) has been convicted of an "egregious harm" crime (enumerated Minn. Stat. § 260C.007, sub. 14).

Adds Minn. Stat. § 260C.329, subd. 4

E. Jurisdiction and Venue

Grants the juvenile court original and exclusive jurisdiction.

Amends Minn. Stat. § 260C.101, subd. 2

F. Venue

Mandates that the petition for reestablishment must be brought in the court that issued the order for guardianship and legal custody and conducts the reviews required under section 260C.607.

Adds Minn. Stat. § 260C.329, subd. 6

G. Procedure

1. Service

Requires service of the petition for reestablishment on: (1) the child; (2) the parent; (3) the child's guardian ad litem; and (4) the child's tribe if the child is subject to the Indian Child Welfare Act.

Adds Minn. Stat. § 260C.329, subd. 7

2. Evidentiary Standard

Permits the court to grant the petition only if it finds by clear and convincing evidence that: (1) the threshold criteria have been met (e.g., the parent has corrected the conditions leading to termination); (2) reestablishment is in the child's best interests; and (3) the child desires to reside with the parent.

Adds Minn. Stat. § 260C.329, subd. 8

H. Effect of Reestablishment Order

Provides that, as of the effective date of a court order: (1) the child is the legal child of the parent; (2) the parent whose rights were terminated under a previous order of the court is restored to the status of legal parent; (3) the order placing the child under guardianship is dismissed; and (4) permanent legal and physical custody of the child is awarded to the parent. Clarifies that a reestablishment order has no effect on: (1) the legal rights of any other terminated parent; or (2) any legal sibling relationship.

Adds Minn. Stat. § 260C.329, subd. 11

Note: The Family Reunification Act summary was prepared by Ron Elwood, Supervising Attorney, Legal Services Advocacy Project. Phone: 651-842-6909. E-mail: relwood@mnlsap.org

II. PATERNITY - DECLARATION OF PARENTAGE AND BIRTH RECORDS

Chapter 108, Article 12, Sections 19 and 23 (HF 1233)

Amends Minn. Stat. §§ 144.215, subd. 3; and 144.218, subd. 5

Effective July 1, 2013

Removes a Declaration of Parentage from the basis: (1) to add a father's name to a birth record; or (2) for a replacement birth record.

Note: These changes are made only in Minnesota Statutes, Chapter 144, which governs the Office of Vital Statistics at the Minnesota Department of Health. Even though the time period where a Declaration of Parentage can be the basis of paternity for a minor has elapsed (i.e., prior declarations are now at the point where those children are age 18), the paternity statutes have not been changed, other than a change to Minn. Stat. § 257.75, subd. 7, which deletes language permitting hospitals to distribute a Declaration of Parentage form. (See Chapter 108, Article 12, Section 97).

III. SAME SEX MARRIAGE/CIVIL MARRIAGE

Chapter 74 (HF 1054), Sections 2 - 4 and 6 - 9

Amends Minn. Stat. §§ 517.01; 517.03, subd. 1; 517.08, subd. 1a; and 518.07

Adds Minn. Stat. §§ 517.201 and 517.23

Effective August 1, 2013

Creates numerous changes to the marriage and marriage dissolution statutes, all stemming from the fundamental statutory change redefining marriage as a "civil marriage" between two persons. This section highlights key changes.

A. Definition of "Civil Marriage"

Chapter 74, Sections 2, 3, 4, and 7 (HF 1054)

Amends Minn. Stat. §§ 517.01, 517.03; subd. 1; and 517.08, subd. 1a

Adds Minn. Stat. § 517.23

Effective August 1, 2013

Replaces marriage "as between two persons of the opposite sex" with the newly-created term "civil marriage," which does not contain the same-sex prohibition and is defined to include any rights, obligations or privileges under state law that are currently granted in connection with the terms "marriage" "marital" "marry" or "married."

B. Recognition of Marriages Performed in Other States

Chapter 74, Section 3 (HF 1054)

Amends Minn. Stat. § 517.03, subd. 1

Effective August 1, 2013

Eliminates the provision prohibiting Minnesota from: (1) recognizing same-sex marriages that are valid (under statute or common law) in another state; and (2) allowing enforcement of those marital rights in Minnesota.

Note: As a result of this change, Minnesota presumably will recognize those marriages legally entered into in another state that permitting same-sex marriages, including any contractual rights granted by the marriage.

C. Dissolution of Marriage

Chapter 74, Sections 3 and 8 (HF 1054)

Amends Minn. Stat. §§ 518.03, subd. 1; and 518.07

Effective August 1, 2013

1. Minnesota Residents Married in Other States

Eliminates the provision prohibiting Minnesota from recognizing same-sex dissolutions in other states (where valid by statute or common law), including any contractual rights arising from the dissolution.

2. Former Minnesota Residents Married in Minnesota

Creates Minnesota jurisdiction for same-sex couples who: (1) were legally married in Minnesota; but where (2) neither party's residence will permit or maintain a same-sex dissolution action. Provides that the Minnesota dissolution "must be adjudicated in accordance with the laws of this state" (which presumably means that all other requirements for jurisdiction, including the 180-day residency period, still apply).

D. Rules of Construction and Revisor's Instruction

Chapter 74, Sections 6 and 9

Adds Minn. Stat. § 517.201

Uncodified language

1. Rules of Construction

Provides that, for purposes of implementing the rights and responsibilities of persons in a same-sex civil marriage, phrases such as "husband," "wife," "mother," "father," "widow," "widower," must be construed in a gender-neutral way.

Note: This provision specifically states that gender-neutral terms apply to presumptions of parentage based upon civil marriage.

2. Revisor's Instructions

Directs the Revisor of Statutes to change all references to "marriage" and "marriages" to "civil marriage" or "civil marriages" unless precluded by the context of the provision or another new or amended provision.

FORECLOSURE LAW

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I. FORECLOSURE RELIEF

Chapter 115, Sections 1, 3, 4, and 5 (SF 1276)

Amends Minn. Stat. §§ 580.02; 582.25; and 582.27

Adds Minn. Stat. § 582.043

Various Effective Dates

A. Applicability

1. Limitations

Limits applicability of new provisions to first lien mortgages that: (1) are governed by either foreclosures by action (judicial) or foreclosures by advertisement (nonjudicial) statutes (Chapter 580 and 581); (2) are secured by one-to-four-family residential real property that is the principal residence of the owner; and (3) do not secure a loan for business, commercial, or agricultural purposes.

Adds Minn. Stat. § 582.043, subd. 2

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., Ch. 581, recorded on or after August 1, 2013

2. Exemptions for "Small Servicers"

a. Time Limited Exemption

Until August 1, 2014, exempts a servicer that has conducted 125 or fewer foreclosure sales during the preceding 12 months.

Adds Minn. Stat. § 582.043, subd. 1(f)

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., Ch. 581, recorded on or after August 1, 2013

b. Permanent Exemption

Exempts a servicer that either: (1) is a small servicer as defined in proposed rules of the Consumer Financial Protection Bureau (i.e., services 5,000 or fewer mortgage loans in which the servicer or an affiliate is the creditor or assignee; or (2) is a Housing Finance Agency as defined in federal regulations.

Adds Minn. Stat. § 582.043, subd. 1(f)

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., Ch. 581, recorded on or after August 1, 2013

B. New Key Definitions

1. "Foreclosure Sale Date"

"Foreclosure sale date" defined to mean the later of either the date: (1) contained in the notice of foreclosure that has been served or published; or (2) to which the sale has been postponed, as is provided under Minn. Stat. § 580.07, subd. 2.

Adds Minn. Stat. § 582.043, subd. 1(b)

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., Ch. 581, recorded on or after August 1, 2013

2. "Loss Mitigation Option"

Defines "loss mitigation option" to mean "a temporary or permanent loan modification, a forbearance agreement, a repayment agreement, a principal reduction, capitalizing arrears, or any other relief, intended to allow a mortgagor to retain ownership of the property."

Adds Minn. Stat. § 582.043, subd. 1(c)

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., Ch. 581, recorded on or after August 1, 2013

C. Loss Mitigation Requirements

Requires servicers to: (1) notify the homeowner in writing of available loss mitigation options offered by the servicer prior to referral to foreclosure; (2) exercise reasonable diligence to facilitate submission and review of loss mitigation applications and supporting documents; (3) provide a

reasonable amount of time for submission of documents; (4) evaluate the homeowner for eligibility for a loss mitigation option prior to referral to foreclosure if the servicer has timely received a loss mitigation application; (5) timely offer the homeowner a loan modification or other loss mitigation option for which the homeowner is eligible; and (6) comply with any applicable appeal period and procedures.

Adds Minn. Stat. § 582.043, subd. 5

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., Ch. 581, recorded on or after August 1, 2013

D. Procedures to Avoid Dual Tracking

Note: "Dual Tracking" is the practice of simultaneously proceeding with a foreclosure and considering an application for a loan modification or other option to avert foreclosure.

1. Prohibitions

a. Prior to Referral to Foreclosure

Prohibits a servicer from initially referring a mortgage loan for foreclosure if the servicer has received a loss mitigation application that has not yet been acted upon.

Adds Minn. Stat. § 582.043, subd. 6(a)

Effective October 31, 2013

b. After Referral to Foreclosure but Before Sale Scheduled

Prohibits a servicer from conducting a foreclosure sale or seeking a judgment of foreclosure if the servicer has received a loss mitigation application that has not yet been acted upon.

Adds Minn. Stat. § 582.043, subd. 6(b)

Effective October 31, 2013

c. After Foreclosure Sale Scheduled but Before Sale Held

Prohibits a servicer from conducting - and requires a servicer to halt -- a foreclosure sale or seeking a judgment of foreclosure if the servicer has received a loss mitigation application by midnight of the seventh business day prior to the foreclosure sale date.

Adds Minn. Stat. § 582.043, subd. 6(c)

Effective October 31, 2013

2. Permitted Practices

Permits a servicer to proceed with the foreclosure action if the homeowner: (1) is provided written notification of the ineligibility for a loss mitigation option and any appeal period has expired; (2) fails to accept a written loss mitigation offer where written offer is applicable and acceptance is required; or (3) declines, in writing, a loss mitigation offer.

Adds Minn. Stat. § 582.043, subd. 6(a), (b), and (c)

Effective October 31, 2013

D. New Requisite to Foreclosure by Advertisement

Adds a fifth requisite to foreclose by advertisement: compliance with new provisions concerning loss mitigation and dual tracking.

Amends Minn. Stat. § 580.02

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., Ch. 581, recorded on or after August 1, 2013

F. Enforcement

1. Right to Bring an Action

Provides a homeowner with a cause of action for violations of the loss mitigation and dual tracking provisions to halt or set aside a foreclosure sale and provides for attorney fees and costs.

Adds Minn. Stat. § 582.043, subd. 7(a)

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., Ch. 581, recorded on or after August 1, 2013

2. Qualifications on Bringing an Action

a. Time Limit to Bring Action

Requires a claim to be brought before the end of the applicable redemption period.

Amends Minn. Stat. § 582.25 (validating foreclosure sales)

Amends Minn. Stat. § 582.27, subd. 1 (curative provisions)

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., Ch. 581, recorded on or after August 1, 2013.

b. Recordation of Lis Pendens

Requires that a lis pendens must be recorded prior to the end of the redemption period in order for a claim to be brought. Establishes a conclusive presumption that the servicer has complied with the new provisions if the lis pendens is not timely recorded.

Adds Minn. Stat. § 582.043, subd. 7(b)

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., Ch. 581, recorded on or after August 1, 2013

GUARDIANSHIP AND CONSERVATORSHIP

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I. UNIFORM PROBATE CODE CHANGES

A. Background Studies Prior to Appointment of Guardian or Conservator

Chapter 86, Article 2, Section 2 (SF 671)

Amends Minn. Stat. § 524.5-118, subd. 1

Effective August 1, 2013

1. Pre-Appointment Background Study

Requires a pre-appointment background study if one has not been conducted within the previous two years

Note: Current law provides that no background study need be conducted prior to an appointment if one has been conducted within the previous five years.

Amends Minn. Stat. § 524.5-118, subd. 1(a)(1)

2. Post-Appointment Background Study

Shortens the period from every five years to every two years that a post-appointment background study must be conducted.

Amends Minn. Stat. § 524.5-118, subd. 1(a)(2)

3. Criminal History Search

Extends the look-back period for criminal history data where the guardian or conservator has not resided in Minnesota from five to ten years.

Amends Minn. Stat. § 524.5-118, subd. 1(b)(2)

4. Prior Licensing Sanction

Requires a search of state licensing agency data to determine if a professional license has been ever been conditioned, suspended, revoked, or canceled.

Add Minn. Stat. § 524.5-118, subd. 1(b)(2)

5. Appointment Before Background Check

Provides that background study must be completed as soon as reasonably possible after appointment, but no later than 30 days after appointment in cases where the court determines that it would be in the best interests of the protected person to appoint a guardian or conservator before the background study can be completed.

Amends Minn. Stat. § 524.5-118, subd. 1(d)

B. Appointment of Guardian of Incapacitated Persons

Chapter 86, Article 2, Sections 4 and 5 (SF 671)

Amends Minn. Stat. §§ 524.5-303; and 524.5-316

Effective August 1, 2013

1. Petition for Incapacity and Guardianship

a. Information Required for Certain Employees of Guardians

Adds that the information required to support the petition for appointment of the guardian must also be supplied for any employee of the guardian responsible for exercising powers and duties under the guardianship.

Amends Minn. Stat. § 524.5-303(c)

b. Additional Information Required

Requires disclosures of whether the proposed guardian or applicable employee has: (1) ever held any professional agency licenses and the status (e.g., active, suspended; revoked); (2) ever been found civilly liable in an action that involved fraud, misrepresentation, material omission, misappropriation, theft, or conversion; (3) ever filed for or received bankruptcy protection; (4) outstanding judgments; (5) ever been the subject of an order for protection or harassment restraining order; and (6) ever been convicted of greater than a petty crime.

Amends Minn. Stat. § 524.5-303(c)

2. Monitoring Reports

Requires the guardian to report, in addition to annually, certain reportable events within 30 days of its occurrence. Grants the court the authority to decline to appoint or remove the guardian for lack of compliance with any reporting requirements.

Amends Minn. Stat. § 524.5-316

C. Appointment of Conservator or Protective Order

Chapter 86, Article 2, Sections 6 and 7 (SF 671)

Amends Minn. Stat. §§ 524.5-403; and 524.5-420

Effective August 1, 2013

1. Petition for Appointment of Conservator or Protective Order

a. Information Required for Certain Employees of Guardians

Adds that the information required to support the petition for an appointment of the conservator must also be supplied for any employee of the conservator responsible for exercising powers and duties under the conservatorship.

Amends Minn. Stat. § 524.5-403(d)

b. Additional Information Required

Requires disclosures of whether the proposed guardian or applicable employee has: (1) ever held any professional agency licenses and the status (e.g., active, suspended; revoked); (2) ever been found civilly liable in an action that involved fraud, misrepresentation, material omission, misappropriation, theft, or conversion; (3) ever filed for or received bankruptcy protection; (4) outstanding judgments; (5) ever been the subject of an order for protection or harassment restraining order; and (6) ever been convicted of greater than a petty crime.

Amends Minn. Stat. § 524.5-403(d)

2. Monitoring Reports

Requires the conservator to report, in addition to annually, certain reportable events within 30 days of its occurrence. Grants the court the authority to decline to appoint or remove the conservator for lack of compliance with any reporting requirements.

Amends Minn. Stat. § 524.5-420

HEALTH LAW

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Acronyms Used in this Section

ACA = Patient Protection and Affordable Care Act (or Affordable Care Act)

BHP = Basic Health Plan

DHS = Minnesota Department of Human Services

EMA = Emergency Medical Assistance

FPG = Federal Poverty Guidelines

MA = Medical Assistance

MAGI = Modified Adjusted Gross Income

MDH = Minnesota Department of Health

MMB = Minnesota Management and Budget

MNCare = MinnesotaCare

QHP = Qualified Health Plan

NEW STATE HEALTH CARE EXCHANGE ("MNsure")

During the 2013, session, the Minnesota Legislature enacted landmark legislation making Minnesota one of 17 states that have opted to establish a state-operated Health Care Exchange under the Patient Protection and Affordable Care Act (ACA) (Public Law 111-148). The bill was signed on March 20, 2013. The formal name of the state's new Health Care Exchange is the "Minnesota Insurance Marketplace." It has been branded "MNsure."

A corollary bill - known as the Market Rules Bill - was subsequently enacted to establish a set of groundrules applicable both inside MNsure and in the private market, outside MNsure.

Had an Exchange Bill not been signed by March 31st, Minnesota would have defaulted to a federally-operated Exchange.

Note: Not all coverage options offered by health plans will be available through MNsure, and consumers can choose to purchase coverage outside MNsure. MNsure is estimated to ultimately serve 1.3 million people, which includes all of the Medical Assistance and MinnesotaCare program participants.

I. MINNESOTA HEALTH CARE EXCHANGE ("MNsure")

Chapter 9 (HF 5)

Adds Chapter 62V (Minn. Stat. §§ 62V.01 - 62V.11)

Effective March 21, 2013

A. Key Definitions

1. Health Carrier

Defined to mean a "health carrier" as defined in Minn. Stat. § 62A.011, subd. 2.

Adds Minn. Stat. § 62V.02, subd. 5

Note: Minn. Stat. § 62A.011, subd. 2, defines a health carrier as an Insurance company licensed by the Department of Commerce to offer, sell, or issue a policy.

2. Health Plan

Defined to mean a "health plan" as defined in Minn. Stat. § 62A.011, subd. 3.

Adds Minn. Stat. § 62V.02, subd. 4

Note: Minn. Stat. § 62A.011, subd. 3, defines a health plan an insurance policy for sickness and accident.

3. Navigator

Defined to mean a Navigator as described in section 1311(i) of the ACA and subsequent rules (i.e., an entity that meets the ACA criteria).

Adds Minn. Stat. § 62V.02, subd. 9

Note: The role of a Navigator is to conduct outreach and/or facilitate enrollment. Though Navigator can facilitate enrollment for applicants inside or outside MNsure, the ACA envisions Navigators to fulfill the ACA's objective to include among the insured the underserved and vulnerable population. MNsure must designate community organization applicants and may designate applicants from other categories as Navigators.

4. Public Health Care Program (Public Programs)

Defined to mean any public health care program administered by DHS.

Adds Minn. Stat. § 62V.02, subd. 10

5. Qualified Health Plan (QHP)

Defined to mean a health plan that: (1) meets the definition in section 1301(a) of the ACA and subsequent rules; and (2) been certified by the MNsure board.

Adds Minn. Stat. § 62V.02, subd. 11

Note: The ACA definition cited requires that a health plan (i) is licensed; (ii) contains the essential benefits required under the ACA; and (iii) is priced the same whether it is offered inside or outside MNsure.

B. Creation

Creates a Health Care Exchange: (1) as a board under Minn. Stat. § 15.012, subd. 1(a) delineating different types of state agencies; and (2) in compliance with the ACA.

Adds Minn. Stat. § 62V.03, subd. 1

C. Initial Operation and Transfer of Operations

Directs MMB to: (1) exercise initial authority and carry out the responsibilities of the board; and (2) by September 21, 2013, transfer authority and responsibilities (including assets and contracts) to the board when it has established bylaws, policies, and procedures governing the operations of MNsure.

Uncodified Section

D. Purpose

Sets forth the purposes as, among others, (1) promoting, among others, affordability, suitable and meaningful choices, health improvement, and reduction of health disparities; (2) facilitating and simplifying comparison between and choice of health insurance for individuals, employees, employers; (3) helping individuals access tax credits; (4) help individuals access public programs; and (5) facilitating continuity of coverage and the integration and transition between public programs and QHPs.

Adds Minn. Stat. § 62V.03, subd. 1

E. Governance

1. Board

a. Number and Terms

Establishes a seven-member board. Designates the DHS Commissioner as a permanent member. Requires that the other members serve: (1) staggered terms; and (2) no more than two.

Adds Minn. Stat. § 62V.04, subd. 1 (establishment)

Adds Minn. Stat. § 62V.04, subd. 3 (terms)

b. Appointment and Consent

Provides that board members are appointed by the governor with consent of both the Senate and the House of Representatives. act

Adds Minn. Stat. § 62V.04, subd. 2

c. Interests Represented

Requires three members, each of which to represent one of the following interests: (1) individual consumers in the market; (2) public health care programs participants; and (3) small employers. Requires the remaining three to have demonstrated expertise, leadership, and innovation in the areas of: (1) health administration, health care finance, health plan purchasing, and health care delivery systems; (2) public health, health disparities, public health care programs, and the uninsured; and (3) health policy issues related to the small group and individual markets.

Adds Minn. Stat. § 62V.04, subd. 2

2. Conflict of Interest

Establishes criteria that disqualify categories of persons from serving on the board.

Disqualifies persons who, at any time during their terms or within one year of a possible appointment: (1) are lobbyists; (2) have spouses who are executives of a health carrier; and (3) are employees, board members, or representatives of: (i) a health care provider; (ii) an insurance company, or (iii) a Navigator.

Adds Minn. Stat. § 62V.03, subd. 4

3. Advisory Committees

Requires the board to establish and maintain advisory committees to provide consumer, industry and other stakeholders with a forum for input into the operations of MNsure. Permits the board to establish additional advisory committees, as necessary.

Adds Minn. Stat. § 62V.03, subd. 13

F. Responsibilities and Powers of the Board

1. Re: Navigators and In-person Assisters

a. Responsibilities of Board

Requires the board, by January 1, 2015, to: (1) establish procedures for the navigator and in-person assister programs; (2) establish a call center and toll-free number for MNsure; (3) develop a variety of training modules, including one on the needs of underserved and vulnerable populations; and (4) ensure information is made available to persons with disabilities.

Adds Minn. Stat. § 62V.05, subd. 4(a), (c), (d), and (e)

Note: The In-person Assister Program is established for 2014 to conduct outreach and/or enroll applicants in QHP's.

b. Interim Policies

Provides that, until January 1, 2015, the Navigator program is the Minnesota Community Application Agent (MNCAA) Program under Minn. Stat. § 256.962.

Adds Minn. Stat. § 62V.05, subd. 4(b)

Note: the MNCAA Program was established in 2007 by the Legislature to provide grants to community organizations to facilitate enrollment of eligible Minnesotans in public programs.

2. Re: Certification and Training of Insurance Agents

Requires the board to establish certification requirements for insurance agents in accordance with the federal rules implementing the ACA. Provides that the health carriers - and not MNsure -- will compensate insurance agents for enrolling applicants. Requires insurance agents to disclose to applicants, orally and in writing at the initial solicitation: (1) which health carriers the agent represents; (2) which health plans offered through MNsure the agent is authorized to sell; (3) that the agent is receiving compensation through the health carriers; and (4) that information about coverage options is available on the MNsure Web site.

Adds Minn. Stat. § 62V.05, subd. 3

3. Re: Health Insurance Carriers and Qualified Health Plans

a. Carrier/Plan Participation in the Exchange in 2014

Requires that, for 2014, the board to permit all health carriers to offer through MNsure any health plan that meet ACA certification requirements.

Adds Minn. Stat. § 62V.05, subd. 5(f)

b. Carrier/Plan Participation in the Exchange in 2015

Directs the board, beginning January 1, 2015, to: (1) establish certification requirements for health carriers; (2) establish certification requirements for health plans; and (3) select specific QHPs that are in the interest of qualified individuals and qualified employers.

Permits the board, in selecting QHPs, to consider, among other things: (1) affordability; (2) quality; (3) value; (4) promotion of prevention, wellness, and initiatives to reduce health disparities; (5) meaningful choices and access; and (6) other criteria that the board determines appropriate

Adds Minn. Stat. § 62V.05, subds. 5(a), (c), and (d)

Note: This part of the new law authorizes but does not require the board to exercise the so-called "active selector" or "active purchaser" power.

c. Decertification

Grants the board the power to decertify health carriers and health plans that fail to maintain compliance with the ACA.

Adds Minn. Stat. § 62V.05, subd. 5(h)

d. Health Plans Offered to Tribes

Beginning January 1, 2015, requires health carriers to use the most current addendum for Indian health care providers approved by the Centers for Medicare and Medicaid Services and the tribes as part of their contracts with Indian health care providers.

Adds Minn. Stat. § 62V.05, subd. 5(i)

4. Re: Dental Plans

Provides that, to the extent practicable, all the provisions applicable to health plans apply, but only to stand-alone dental plans offered through the Exchange.

Adds Minn. Stat. § 62V.05, subd. 9

5. Re: Appeals

Grants the board the power to conduct hearings, appoint hearing officers, and recommend final orders related to appeals of any determinations of MNsure, except appeals of determinations of decisions concerning aggrieved recipients of public assistance programs, which remain governed by Minn. Stat. § 256.045.

Adds Minn. Stat. § 62V.05, subd. 6

6. Re: Rulemaking

a. Special Procedures Until January 1, 2015

Gives interested parties 21 days to comment on proposed rules. Makes final rules effective either: (1) upon publication before January 1, 2014 in the State of the notice of final adoption for rules, or (2) 30 days after publication in the State Register on and after January 1, 2014 of the notice of final adoption for rules.

Adds Minn. Stat. § 62V.05, subd. 8

b. Expedited Process Beginning January 1, 2015

Provides for expedited rulemaking pursuant to Minn. Stat. § 14.389 for rules adopted on or after prior to January 1, 2015.

Adds Minn. Stat. § 62V.05, subd. 8

Note: Under expedited rulemaking, an agency must allow 30 days after publication in the State Register for comment.

G. Treatment of Data

1. On Exchange Participants

Provides that data on individuals, employees, and employers participating in MNsure is classified as private or nonpublic data, as defined in Minn. Stat. § 13.02.

Adds Minn. Stat. § 62V.06, subd. 3

2. On Applicants for Certification

Provides that data on an insurance agent or an entity seeking certification as a navigator or in-person assister - other than the applicant's name - is: (1) private when the application is submitted; and (2) other than trade secret data, public when a determination is made. If an application is denied, the public data must: (1) include the evaluation criteria used by the board; (2) include the specific reasons for the denial; and (3) be published on the MNsure Web site.

Adds Minn. Stat. § 62V.06, subd. 4

3. Data Sharing and Sale of Data

Limits the ability of MNsure to share data to certain circumstances (e.g., pursuant to a court order). Requires disclosures and notices regarding privacy or sharing of data. Prohibits MNsure from selling data.

Adds Minn. Stat. § 62V.06, subd. 5 (sharing)

Adds Minn. Stat. § 62V.06, subd. 6 (disclosures/notices)

Adds Minn. Stat. § 62V.06, subd. 9 (sale)

H. Funding for the Exchange Operations

Funds MNsure from a portion of total premiums collected for individual and small group market health plans and dental plans sold through MNsure. Caps funding at: (1) 1.5% of premiums collected prior to January 1, 2015; and (2) 3.5% of premiums collected thereafter. Specifies that the funding source for MNsure operations also funds navigators.

Adds Minn. Stat. § 62V.05, subd. 2

I. Phase-Out of Minnesota Comprehensive Health Association (MCHA)

Authorizes the Department of Commerce to phase-out MCHA. Prohibits the phase-out from beginning before January 1, 2014 or the effective date of the operation of MNsure, whichever is later. Requires, to the extent practicable, the least amount of disruption to the enrollees' coverage.

Uncodified Section

II. MARKET RULES BILL

Chapter 84, Article 2 (HF 779)

Amends Various Sections

Adds Chapter 62K (Minn. Stat. §§ 62K.01 - 62K.15)

Adds Various Other Sections

Various Effective Dates

This bill contains two articles. Article 1 consists of 93 sections making conforming changes to state law to implement the Affordable Care Act, including repeal of a number of inconsistent statutes.

Article 2 consists of 16 sections comprising the Market Rules, which govern health insurance offered both inside and outside MNsure.

Note: MA and MnCare will be available through MNsure.

A. Categories of Offering (Metal Levels)

Provides that, if a health carrier offers a catastrophic or a bronze level plan in any service area in an individual or group market, it must also offer silver and gold level plans in that same market.

Adds Minn. Stat. § 62K.06

Effective January 1, 2015

Note: Under the ACA, four categories or levels of coverage will be offered: Bronze, Silver, Gold, and Platinum. These are called "metal levels." They are based on "actuarial value," which represents the percentage of costs covered by the plan. The higher the level, the higher the premium cost to the consumer and the greater the coverage: Bronze: 60% costs covered; Silver: 70% costs covered; Gold: 80% costs covered; Platinum: 90% costs covered.

B. Geographic Accessibility

1. Maximum Time/Distance to Basic Services

Provides that the nearest provider of primary care, mental health services, and general hospital services must be within 30 miles or 30 minutes travel distance or time. Applies to carriers that either: (1) own their own networks; or (2) rent networks.

Adds Minn. Stat. § 62K.10, subd. 1 (applicability)

Adds Minn. Stat. § 62K.10, subd. 2 (maximum time and distance)

Effective January 1, 2015

2. Maximum Time/Distance to Specialty Services

Provides that the nearest provider of the following services must be within 60 miles or 60 minutes travel distance or time: (1) specialty physician services; (2) ancillary services; (3) specialized hospital services; and (4) any service other than primary care, mental health, and general hospital service. Applies to carriers that either: (1) own their own networks; or (2) rent networks.

Adds Minn. Stat. § 62K.10, subd. 1 (applicability)

Adds Minn. Stat. § 62K.10, subd. 3 (maximum time and distance)

Effective January 1, 2015

3. Service Area Requirements

Requires health carriers to serve an entire county. Provides that service must be established without regard: (1) race; (2) ethnicity; (3) language; (4) concentrated poverty factors; (4) health status-related factors; or (5) other factors that exclude specific high-utilizing, high-cost, or medically underserved populations.

Adds Minn. Stat. § 62K.13

Effective January 1, 2015

4. Waivers

a. Of Geographic Accessibility Requirements

Permits applications to MDH for a waiver, which expires after four years, if the provider: (1) is unable to meet of the geographic accessibility requirements; (2) can demonstrate with specific data that compliance is not feasible in a particular service area or part of a service area; and (3) details the steps that were and will be taken to address the deficiency.

Adds Minn. Stat. § 62K.10, subd. 5

Effective January 1, 2015

b. Of Service Area Requirements

Permits application to MDH to serve an area smaller than the entire county if the carrier can demonstrate the waiver is: (1) necessary; (2) nondiscriminatory; and (3) in the best interest of enrollees.

Adds Minn. Stat. § 62K.13

Effective January 1, 2015

C. Network Adequacy

Requires provider networks to have a sufficient number and types of providers, including mental health and substance abuse providers, available to all enrollees without unreasonable delay.

Charges MDH with considering network adequacy based on criteria, including among other considerations, whether: (1) primary care physician services are available and accessible 24/7 within the network area; (2) a sufficient number of primary care physicians have hospital admitting privileges at one or more participating hospitals within the network area; and (3) specialty physician service is available.

Adds Minn. Stat. § 62K.10, subd. 4

Effective January 1, 2015

D. Billing

Prohibits a network provider from billing an enrollee for more than the allowable amount the health carrier has contracted for with the provider to pay in total for the service. Permits a network provider to bill for: (1) the approved co-pay; (2) the deductible; (3) coinsurance; or (4) services not covered, unless the enrollee has agreed in advance to receive and pay for the services.

Adds Minn. Stat. § 62K.10, subd. 11

Effective January 1, 2014

E. Limited-Scope Pediatric Dental Plans

Requires health carriers to offer limited-scope pediatric dental plans, consistent with the ACA: (1) on a guaranteed issue; (2) on a guaranteed renewable basis; (3) with premiums rated on allowable rating factors used for health plans; and (4) without any exclusions or limitations based on preexisting conditions. Allows discontinuance with prior written notice if the carrier offers the same or a substantially similar dental plan. Requires the dental services are available within 60 miles or 60 minutes' travel time. Deems carriers to be in compliance if they offer stand-alone limited-scope pediatric dental plans, either separately or in conjunction with a health plan.

Adds Minn. Stat. § 62K.14

Effective January 1, 2015

F. Consistent Open Enrollment Periods

Provides that the open enrollment periods for the individual market must conform to the open enrollment periods for plans available through MNsure.

Adds Minn. Stat. § 62K.15

Effective January 1, 2015

MINNESOTA'S PUBLIC HEALTH PROGRAMS

I. DENTAL ACCESS STUDY

Chapter 108, Article 6, Section 35 (HF 1233)

Uncodified Section

Directs DHS to study the current oral health and dental services delivery system for public health care programs to: (1) improve access; (2) ensure cost-effective delivery of services; and (3) recommend modifications, including to the critical access dental provider payments structure. Requires DHS to consult with dental providers serving public program recipients, particularly those who: (1) serve substantial numbers of low-income and uninsured patients; and (2) currently receive enhanced critical access dental provider payments. Requires DHS to submit a report with recommendations to the Legislature by December 15, 2013.

II. EMERGENCY MEDICAL ASSISTANCE (EMA)

A. Coverage of Certain Services for Noncitizens

Chapter 108, Article 6, Section 7 (HF 1233)

Amends Minn. Stat. § 256B.06, subd. 4

Effective July 1, 2013

Extends - except where prohibited under federal law - MA coverage for noncitizens for: (1) dialysis services provided in a hospital or freestanding dialysis facility; and (2) surgery, chemotherapy, radiation, and related services where: (i) cancer is not in remission; and (ii) surgery or treatment is necessary.

B. Studies Regarding EMA Recipients and Uninsured Persons

Chapter 108, Article 6, Sections 33 and 34 (HF 1233)

Uncodified Sections

1. Coordinated Care and Coverage for EMA Recipients and the Uninsured

a. General Charge

Directs DHS to identify alternatives and make recommendations to the Legislature by January 15, 2014 for providing coordinated and cost-effective health care to, and coverage of medically necessary services persons for, individuals who: (1) are eligible for EMA; or (2) are uninsured, below 400% FPG, and ineligible for public programs or public subsidies. Directs DHS to consult with safety net hospitals, nonprofit health care coverage programs and community clinics, counties, and other interested parties.

b. Specific Data Gathering Requirements

Directs DHS to issue a request for information by August 1, 2013 to identify, among other things: (1) medical, dental, and behavioral health services necessary to reduce emergency room and inpatient hospital use; (2) statewide delivery system and funding options; (3) how funding and delivery of services will be coordinated with covered EMA services; and (4) eligibility determination options.

2. Coverage for EMA Recipients for Medically Necessary Services

Effective July 1, 2013

a. General Charge

Directs DHS to issue a request for information by August 1, 2013 to identify and develop options to cover EMA recipients for medically necessary services that are not eligible for

federal financial participation. Requires: (1) information to be submitted to DHS by November 1, 2013; and (2) DHS to submit a report with recommendations for coverage options to the Legislature by January 15, 2014.

b. Focus

Requires the request for information to focus on providing coverage for nonemergent services for recipients who have: (1) two or more chronic conditions; and (2) had two or more hospitalizations covered by EMA in a one-year period.

c. Specific Information Requested

Requires the information requested to include, among other things: (1) services necessary to reduce emergency room and inpatient hospital use by EMA recipients; (2) efficient and cost-effective statewide service delivery methods; (3) funding options; and (4) coordination of service delivery and funding with covered EMA services.

C. EMA MA Referral and Assistance Grants

Chapter 108, Article 14, Section 2, subd. 6(h) (HF 1233)

Uncodified Section

Effective July 1, 2013

Appropriates \$100,000 in fiscal year 2014 and \$100,000 in fiscal year 2015 for grants to nonprofit immigration legal services programs that serve clients based on indigency. Directs the grant funds for the provision of legal services for immigration assistance to individuals with emergency medical conditions or complex and chronic health conditions who: (1) are not currently eligible for public health care programs; but (2) may meet eligibility requirements with immigration assistance. Directs grantees to connect the target population with alternative resources and services to assist in meeting their health care needs.

III. MEDICAID EXPANSION

Chapter 1 (HF 9)

Amends Minn. Stat. § 256B.056, subds. 1a, 3c and 4

Adds Minn. Stat. § § 256B.055, subd. 16

Effective January 1, 2014

The first bill to reach the Governor's desk during the 2013 session was the Medicaid Expansion bill. In passing this bill, the Minnesota joined more than 20 states that have chosen to take advantage of an option provided under federal health reform to extend coverage to more Minnesotans through Medical Assistance or MA (as the Medicaid Program is called in Minnesota). An estimated 35,000 additional

low-income individuals who earn slightly more than \$15,000 annually will now qualify for MA coverage.

A. Eligibility

1. Age

Expands eligibility to children ages 19 and 20.

Adds Minn. Stat. § 256B.055, subd. 16

2. Income

a. Adults Without Children; Parents; Caretaker Relatives

Expands eligibility to those with incomes up to 133% FPG. Disregards as income: (1) certain Veterans benefits; and (2) Veterans Administration unusual medical expense payments.

Amends Minn. Stat. § 256B.056, subdivision 4

b. Methodology

Changes calculation for income eligibility to the modified adjusted gross income (MAGI) methodology, as defined in the ACA for: (1) children under age 19, their parents, and their relative caretakers; (2) children ages 19 to 20; (3) pregnant women; (4) infants; and (5) adults without children. Subtracts from the calculation of income an amount equivalent to 5% FPG from the applicant's MAGI.

Amends Minn. Stat. § 256B.056, subdivision 1a

c. Assets

Beginning January 1, 2014, eliminates the limits of \$10,000 in total net assets for a household of one and \$20,000 for a household of two or more for all applicants except parents and caretaker relatives.

Amends Minn. Stat. § 256B.056, subdivision 3c

IV. MEDICAL ASSISTANCE (MA) CHANGES

A. Alternative Health Care Delivery Systems

Chapter 108, Article 1, Section 26 (HF 1233)

Amends Minn. Stat. § 256B.0755, subd. 3

Effective July 1, 2013 for contracts entered into or renewed after July 1, 2013

Requires a health care delivery system demonstration projects (including Accountable Care Organizations or ACOs) applying for approval to, among other things: (1) demonstrate how its services will be coordinated with services provided by other providers and county agencies; and (2) document how it will address local needs, priorities, and public health goals.

B. DHS Responsibility Upon Application

Chapter 108, Article 1, Sections 7 and 8 (HF 1233)

Amends Minn. Stat. § 256B.04, subd. 18

Adds Minn. Stat. § 256B.02, subd. 19

Various Effective Dates

1. Acceptance in Multiple Forms

Requires DHS to accept applications for MA: (1) by telephone; (2) via mail; (3) in-person; (4) online; (5) via an Internet Web site; and (6) through other commonly available electronic means.

Amends Minn. Stat. § 256B.04, subd. 18(a)

Effective January 1, 2014

2. Identification and Definition of Other "Insurance Affordability Programs"

a. Definition

Defines "insurance affordability program" to mean: (1) MA; (2) MNCare; (3) a program that provides advance payments of the premium tax credits; or (4) a BHP.

Adds Minn. Stat. § 256B.02, subd. 19

Effective May 24, 2013

b. Identification

Directs DHS to determine if the applicant is potentially eligible for other "insurance affordability programs" if the applicant is ineligible for MA.

Adds Minn. Stat. § 256B.04, subd. 18(c)

Effective January 1, 2014

C. Eligibility

Chapter 108, Article 1, Sections 6, 9 - 25, and 68 (HF 1233)

Amends Minn. Stat. § 256B.055, subs. 3a, 4, 6, 10, 15, and 17; and 256.056, subs. 1 5c, and 10; 256B.057, subd. 1; and 256B.06, subd. 4

Adds Minn. Stat. § 256B.02, subd. 18; 256B.055, subd. 17; 256B.056, subd. 7a; and 256.067, subd. 12

Repeals Minn. Stat. §§ 256B.055, subs. 3, 5, and 10b; 256B.056, subd.5b; and 256B.057, subs. 1c and 2

Various Effective Dates

1. Categories of Eligible Persons

a. Adults Who Were in Foster Care at 18

Extends eligibility for MA to persons under 26 who were: (1) in foster care when they turned 18; and (2) were enrolled in MA while in foster care.

Adds Minn. Stat. § 256B.055, subd. 17

Effective January 1, 2014

b. Adults Without Children

Removes the bar to eligibility for an adult in a family with children. Clarifies that adults without children are not eligible if they are eligible for or enrolled in the Supplemental Security Income Program (SSI).

Amends Minn. Stat. § 256B.055, subd. 15

Effective January 1, 2014

c. "Caretaker Relatives"

Defines a "caretaker relative" as a relative, by blood, adoption, or marriage, of a child under 19 with whom the child is living and who assumes primary responsibility for the child's care.

Adds Minn. Stat. § 256B.02, subd. 18

Effective January 1, 2014

Note: Caretaker relatives are eligible for MA under Minn. Stat. § 256B.055, subd. 3a.

d. Children Under the Age of 19

1) Definition of Dependent Child

Defines a dependent child as a child under 19.

Amends Minn. Stat. § 256B.055, subd. 3a

Effective the later of January 1, 2014 or upon federal approval

Note: Current law refers to children under 18, with certain education-related exceptions for children under 19.

2) Income Limit

Increases the MA income limit for children under 19 to 275% FPG.

Amends Minn. Stat. § 256B.056, subd. 4

Effective January 1, 2014

e. Children Age 19 to 20

Makes a 19 or 20 year old with income up to 133% of FPG eligible for MA.

Amends Minn. Stat. § 256B.056, subd. 4

Effective January 1, 2014

f. Infants Under Two

Expands MA to infants who are: (1) under two; and (2) reside in families with income based on MAGI at or below 275% FPG (i.e., the standard provided under Minn. Stat. § 256B.057, subd. 1).

Amends Minn. Stat. §§ 256B.055, subd. 10; and 256B.057, subd. 1

Effective January 1, 2014

g. Pregnant Women

Eliminates the requirement that pregnant women must have written verification of a positive pregnancy test from a physician or licensed registered nurse to be eligible for MA. Requires, instead, that DHS accept self-attestation of pregnancy, unless DHS has information that is not reasonably compatible with the attestation.

Amends Minn. Stat. §§ 256B.55, subd. 6; and 256B.057, subd. 1

Effective January 1, 2014

h. Stepparents

Expands eligibility for MA to stepparents of children under 19, and removes the requirement that the children be the stepparent's dependent.

Amends Minn. Stat. § 256B.055, subd. 3a

Effective the later of January 1, 2014 or upon federal approval

2. Presumptive Eligibility Determinations by Qualified Hospitals

Directs DHS to establish a process to qualify hospitals to determine presumptive eligibility for MA for applicants who may have a basis of eligibility using MAGI.

Adds Minn. Stat. § 256B.057, subd. 12

Effective January 1, 2014

3. Eligibility Requirements

a. Citizenship

Clarifies that MA coverage, funded through the federal Children's Health Insurance Program, is available for pregnancy related services for pregnant women who are ineligible for federally funded MA because of immigration status.

Amends Minn. Stat. § 256B.06, subd. 4.

Effective January 1, 2014

b. Excess Income Standard

Clarifies that the spend-down standard set at 133% FPG applies to: (1) parents; (2) caretaker relatives; (3) pregnant women; (4) infants; and (5) children ages two through 20.

Amends Minn. Stat. § 256B.056, subd. 5c

Effective January 1, 2014

c. Residency

Aligns the residency standard with the definition in federal rules (i.e., 42 C.F.R. § 435.403), replacing the DHS rules as the standard.

Amends Minn. Stat. § 256B.056, subd. 1

Effective January 1, 2014

4. Eligibility Redeterminations

Adds Minn. Stat. § 256B.056, subd. 7a

Effective January 1, 2014

a. Where Existing Information is Sufficient

Requires DHS to make annual eligibility redeterminations based on existing information in the case file (provided the existing information is sufficient) without requesting additional information from the enrollee.

Adds Minn. Stat. § 256B.056, subd. 7a(a)

b. Where Existing Information is Insufficient

Requires DHS, where existing information in the file is insufficient to redetermine eligibility, to: (1) provide the enrollee with a prepopulated renewal form; (2) permit the enrollee to submit the form with any corrections or additional information; and (3) sign the renewal form by the allowed means of submission.

Adds Minn. Stat. § 256B.056, subd. 7a(b)

c. Reinstatement Where Enrollee Fails to Timely Complete Renewal

Allows an enrollee terminated for failure to timely complete the renewal process to: (1) submit the renewal within four months of termination; and (2) if eligible, have coverage reinstated retroactive to the date of termination.

Adds Minn. Stat. § 256B.056, subd. 7a(c)

d. Enrollees Subject to Spend-Downs

Requires enrollees subject to spend-downs to renew eligibility every six months.

Adds Minn. Stat. § 256B.056, subd. 7a(d)

5. Eligibility Verification

Requires DHS, among other things, to: (1) use information obtained through the U.S. Department of Health and Human Services' electronic service and other available electronic data sources to verify eligibility requirements; (2) establish standards to define when information obtained electronically is reasonably compatible with information provided by applicants and enrollees (including self-attestation); and (3) allow real-time eligibility determinations.

Amends Minn. Stat. § 256B.056, subd. 10

Effective January 1, 2014

6. Repealed Sections and Subdivision

Repeals sections and subdivisions referencing: (1) eligibility of and asset limits applicable to pregnant woman; and (2) eligibility of: (i) AFDC families; (ii) children generally; and (iii) children under two.

Repeals Minn. Stat. §§ 256B.055, subd. 5 (pregnant women; eligibility)

Repeals Minn. Stat. §§ 256B.057, subd. 1c (pregnant women; assets)

Repeals Minn. Stat. § 256B.055, subd. 3 (AFDC families)

Repeals Minn. Stat. §§ 256B.057, subd. 2 (children generally)

Repeals Minn. Stat. § 256B.055, subd. 10b (children under two)

Effective January 1, 2014

D. Childhood Immunizations

Chapter 108, Article 6, Section 14 (HF 1233)

Amends Minn. Stat. § 256B.0625, subd. 39

Effective August 1, 2013

Eliminates the cap of \$8.50 per dose that MA will pay for administering pediatric vaccines to eligible children.

E. Coverage of Physical and Occupational Therapy and Speech-Language Pathology

Chapter 81, Sections 4 - 6 (SF 654)

Amends Minn. Stat. §§ 256B.0625, subds. 8, 8a, and 8b

Effective August 1, 2013

Removes the requirement that pre-authorization from DHS that services are medically necessary must be obtained for the following services: (1) physical therapy and related services; (2) occupational therapy and related services; and (3) speech-language pathology and related services.

Amends Minn. Stat. §§ 256B.0625, subds. 8 (physical therapy)

Amends Minn. Stat. §§ 256B.0625, subds. 8a (occupational therapy)

Amends Minn. Stat. §§ 256B.0625, subds. 8b (speech-language pathology)

F. Coverage of Special Transportation

Chapter 81, Section 7 (SF 654)

Amends Minn. Stat. § 256B.0625, subd. 17

Repeals Minn. R., part 9505.0315, subp. 7, item D

Effective August 1, 2013

Eliminates the requirement imposed on special transportation providers to take MA recipients to the "nearest appropriate" health care provider, and establishes a radius limit of 30 miles to a primary care provider or 60 miles to a specialty care provider. Allows the MA recipient to exceed these limits if the recipient receives authorization from the local agency.

G. Dental Coverage

Chapter 108, Article 6, Section 8 (HF 1233)

Amends Minn. Stat. § 256B.0625, subd. 9

Effective August 1, 2013

Extends MA dental coverage for adults to: (1) house calls or extended care facility calls for on-site delivery of covered services; (2) behavioral management, when additional staff time is required and sedation is not used; (3) oral or IV sedation, if the covered service cannot be performed safely without it or would need to be performed under general anesthesia in a hospital or surgical center; and (4) prophylaxis, in accordance with an individualized treatment plan, but no more than four times per year.

H. Diabetic Testing Program

Chapter 108, Article 6, Section 13 (HF 1233)

Adds Minn. Stat. § 256B.0625, subd. 31b

Effective August 1, 2013

Directs DHS to: (1) implement a point-of-sale preferred diabetic testing supply program by January 1, 2014; (2) adopt and administer the preferred diabetic testing supply program as part of the administration of the diabetic testing supply rebate program; and (3) seek any federal waivers or approvals necessary to implement the directive. Grants DHS the authority to add to, delete from, or otherwise modify the preferred diabetic testing supply program drug list after: (1) consulting with the Drug Formulary Committee and appropriate medical specialists; and (2) providing public notice and the opportunity for public comment.

I. Doula Services

Chapter 108, Article 6, Section 11 (HF 1233)

Adds Minn. Stat. § 256B.0625, subd. 28b

Effective the later of January 1, 2014 or upon federal approval, and applies to services provided on or after the effective date.

Extends MA coverage to doula services provided by a certified doula of the mother's choice.

Defines "doula services" to mean childbirth education and support services, including emotional and physical support provided during pregnancy, labor, birth, and postpartum.

J. Hennepin Pilot Program

Chapter 108, Article 6, Sections 17 and 18 (HF 1233)

Amends Minn. Stat. §§ 256B.0631, subd. 1; and 256B.0756

Effective August 1, 2013

Makes changes to the statutes governing a pilot program operated by Hennepin County to test alternative and innovative health care delivery networks.

1. Identification of Enrollees Based on Zip Code

Permits DHS to identify individuals to be enrolled in the Hennepin County pilot program: (1) based on zip code; or (2) whether the individuals would benefit from an integrated health care delivery network.

Amends Minn. Stat. § 256B.0756

2. Elimination of Cap on Participants

Removes the enrollment cap of 7,000 enrollees.

Amends Minn. Stat. § 256B.0756

3. Waiver of Co-Payments

Permits Hennepin County's pilot program to waive co-payments. Excludes the value of the co-payments in the capitation payment amount to the integrated health care delivery networks under the pilot program.

Amends Minn. Stat. § 256B.0631, subd. 1

K. Nonemergency Transportation Mandate

Chapter 81, Section 8 (SF 654)

Amends Minn. Stat. § 256B.0625, subd. 18e

Effective August 1, 2013

Extends the time frame within which DHS must submit enabling legislation to implement a single administrative structure and delivery system for nonemergency medical transportation, as required by the 2012 Minnesota Legislature. Pushes back: (1) to January 15, 2014 (from January 15, 2013) the date by which DHS must submit necessary legislation; and (2) to July 1, 2014 (from July 1, 2013) the date by which DHS must implement the new system.

L. Payment for Multiple Services Provided on the Same Day

Chapter 108, Article 6, Section 16 (HF 1233)

Adds Minn. Stat. § 256B.06, subd. 63

Effective August 1, 2013

Directs DHS not to prohibit payments, including supplemental payments, for mental health services or dental services provided to a patient by a clinic or health care professional solely because the services were provided on the same day as other covered health services furnished by the same provider.

M. Public Information

Chapter 81, Section 10 (SF 654)

Amends Minn. Stat. § 256B.0625, subd. 25

Effective August 1, 2013

Adds to the items DHS is required to publish in the Minnesota health care programs provider manual and on its Web site the criteria and standards used to determine whether certain providers must obtain prior authorization for their services.

IV. MINNESOTACARE (MNCare)

Chapter 108, Article 1, Sections 3 and 34 - 68 (HF 1233)

Amends Minn. Stat. §§ 256L.03, subs. 1, 1a, 3, 4b, and 5; 256L.04, subs. 1, 7, 10, and 12; 256L.05, subs. 1 and 3c; 256L.06, subd. 3; 256L.07, subs. 1, 2, and 3; 256L.09, subd. 2; 256L.12, subd. 1; and 256L.15, subd. 2

Adds Minn. Stat. §§ 256.01, subd. 35; 256L.02, subs. 5 and 6; 256L.04, subs. 1c and 14; and 256L.121

Repeals Minn. Stat. §§ 256L.01, subd. 4a; 256L.04, subs. 1b, 9, and 10a; 256L.05, subd. 3b; 256L.07, subs. 1, 5, 8, and 9; 256L.011, subs. 6 and 7; and 256L.17, subs. 1, 2, 3, 4, and 5

Various Effective Dates

Note: MinnesotaCare is continued through 2014, with the changes made under this legislation, under a waiver. The legislation contemplates that MinnesotaCare will become the Basic Health Plan Option (BHP) available under the ACA. Though no decision has been made, it is expected that the new BHP will retain the MinnesotaCare brand.

A. Transition to a Basic Health Plan (BHP)

1. Seeking Federal Approval for BHP

Requires DHS to: (1) seek federal approval and any necessary waivers to operate a BHP for persons with incomes up to 275% FPG; (2) secure all federal funding available, including from premium tax credits and cost-sharing subsidies available under the ACA; and (3) ensure federal funding is predictable, stable and sufficient to sustain the ongoing operation of MNCare. Requires legislative approval for contribution of state funds to cover individuals between 200% and 275% FPG.

Adds Minn. Stat. § 256.01, subd. 35(a) and (d) (federal approval)

Adds Minn. Stat. § 256.01, subd. 35(e) (legislative approval)

Effective August 1, 2013

Adds Minn. Stat. § 256L.02, subd. 5 (sustainability of funding)

Effective May 24, 2013

2. Program Design

Requires federal funding received to be used for the design and implementation of a single streamlined program that incorporates: (1) payment reform characteristics included in the health care delivery system and accountable care organization payment models; (2) benefit set flexibility; (3) co-payment or premium structure flexibility; and (4) seamless transition from public to private coverage.

Adds Minn. Stat. § 256.01, subd. 35(b)

Effective August 1, 2013

3. Progress Report

Mandates DHS to: (1) report to the Legislature by January 15, 2015 on the progress of receiving a federal waiver; and (2) recommend any legislative changes necessary to implement the BHP.

Adds Minn. Stat. § 256.01, subd. 35(e)

Effective August 1, 2013

B. Coordination with MNsure

Declares MNCare to be a public health care program for purposes of the MNsure chapter (new Chapter 62V).

Adds Minn. Stat. § 256L.02, subd. 6

Effective January 1, 2014

C. Coordination with MA

1. Program Administration

Requires DHS to coordinate administration of MA and MNCare to maximize efficiency and improve the continuity of care, including: (1) establishing consistent geographic coverage; (2) requiring entities to participate in both programs; and (3) facilitating continuity of health plan and provider networks.

Adds Minn. Stat. § 256L.121, subd. 3

Effective May 24, 2013

2. Eligibility and Coverage

Requires DHS to coordinate eligibility and coverage to ensure a seamless transition between the programs.

Adds Minn. Stat. § 256L.04, subd. 14(b)

Effective the later of January 1, 2014 or upon federal approval

D. Availability of Applications and Assistance

1. Applications

Allows applicants, in accordance with the ACA, to submit applications: (1) through MNsure; (2) online; (3) in person; (4) by mail; (5) by phone; and (6) any other means by which MA applications may be submitted. Requires MNCare applications to be made available at locations at which MA applications must be made available.

Amends Minn. Stat. § 256L.05, subd. 1

Effective January 1, 2014

2. Assistance

Requires MNCare application assistance to be available: (1) at locations at which MA applications must be made available; and (2) online for applicants filing through MNsure.

Amends Minn. Stat. § 256L.05, subd. 1

Effective January 1, 2014

E. Program Changes

1. Eligibility

a. Expansion of Eligibility

1) Based on Citizenship

Makes noncitizens eligible for MNCare who: (1) have incomes at or below 200% FPG; (2) are lawfully present; and (3) are ineligible for MA due to immigration statuses. Makes nonimmigrants, as defined in federal law, eligible for MNCare.

Amends Minn. Stat. § 256L.04, subd. 10

Effective the later of January 1, 2014 or upon federal approval

2) Inmates Awaiting Disposition of Charges

Expands eligibility for MNCare to enrollees and applicants residing in a correctional or detention facility who are awaiting disposition of charges.

Amends Minn. Stat. § 256L.04, subd. 12

Effective January 1, 2014

3) Based on Other Coverage

Makes a family or individual with minimum essential health coverage ineligible for MNCare. Deletes the requirement that persons must have no health coverage: (1) while enrolled; or (2) for at least four months prior to application and renewal.

Amends Minn. Stat. § 256L.07, subd. 3

Effective the later of January 1, 2014 or upon federal approval

b. Limitations/Conditions on Eligibility

1) Elimination of Dual Eligibility

Eliminates: (1) eligibility for MNCare if the applicant is eligible for MA; and (2) the right of choice for a potentially eligible applicant to enroll in either MA or MNCare. Requires DHS to coordinate eligibility and coverage to ensure a seamless transition between the programs.

Amends Minn. Stat. § 256L.04, subd. 8 (removal of choice)

Adds Minn. Stat. § 256L.04, subd. 14(a) (no dual eligibility)

Adds Minn. Stat. § 256L.04, subd. 14(b) (coordination)

Effective the later of January 1, 2014 or upon federal approval

2) Ineligibility for QHP

Makes a person eligible for MNCare ineligible to enroll in a QHP offered through MNsure.

Adds Minn. Stat. § 256L.04, subd. 1c

Effective January 1, 2015

3) Based on Income

Establishes the MNCare income limit at 200% FPG.

Amends Minn. Stat. § 256L.07, subd. 1

Effective the later of January 1, 2014 or upon federal approval

4) Based on Access to Employer-Subsidized Coverage

Makes persons ineligible for MNCare if they have access to subsidized health coverage that: (1) is affordable; and (2) provides minimum value as defined in federal regulations.

Amends Minn. Stat. § 256L.07, subd. 2

Effective the later of January 1, 2014 or upon federal approval

Note: Under current law, persons must not have access to subsidized employer coverage, or have had access through the current employer, for 18 months prior to application or reapplication.

5) Families with Children

Modifies income eligibility criteria to cover families with children with incomes between 133% and 200% FPG.

Amends Minn. Stat. § 256L.04, subd. 1.

Effective the later of January 1, 2014 or upon federal approval

6) Single Adults and Households With No Children

Makes individuals and families with no children with incomes between 133% and 200% FPG eligible for MNCare.

Amends Minn. Stat. § 256L.04, subd. 7

Effective the later of January 1, 2014 or upon federal approval

7) Pregnant Women

Removes references to pregnant women under MNCare because: (1) pregnant women are eligible for MA; and (2) persons eligible for MA will no longer be eligible for MNCare.

Amends Minn. Stat. § 256L.03, subd. 1a (covered services)

Amends Minn. Stat. § 256L.09, subd. 2 (residency)

Effective the later of January 1, 2014 or upon federal approval

2. Asset Limits

Repeals asset limit requirements.

Repeals Minn. Stat. § 256L.17, subs. 1, 2, 3, 4, and 5

Effective January 14, 2014

3. Premiums

Decreases the premiums by 10%, and specifies that children 20 or younger do not pay premiums. Changes the specific individual premium payments to:

Amends Minn. Stat. § 256L.15, subd. 2

Effective the later of January 1, 2014 or upon federal approval

0% - 55% FPG	\$4
55% - 80% FPG	\$6
80% - 90% FPG	\$8
90% - 100% FPG	\$10
100% - 110% FPG	\$12
110% - 120% FPG	\$15
120% - 130% FPG	\$18
130% - 140% FPG	\$21
140% - 150% FPG	\$25
150% - 160% FPG	\$29
160% - 170% FPG	\$33
170% - 180% FPG	\$38
180% - 190% FPG	\$43
190% - 200% FPG	\$50

4. Hospital Cap

Eliminates the annual inpatient hospital cap of \$10,000.

Amends Minn. Stat. § 256L.03, subds. 3 and 5

Effective the later of January 1, 2014 or upon federal approval

5. Covered Health Services

Updates the listing of MNCare covered services by striking language excluding coverage of: (1) inpatient hospital services; (2) inpatient mental health services; and (3) chemical dependency services. Requires coverage of essential health benefits.

Amends Minn. Stat. § 256L.03, subd. 1

Effective the later of January 1, 2014 or upon federal approval

6. Loss Ratio

Requires coverage provided through MNCare to have a medical loss ratio of at least 85%.

Adds Minn. Stat. § 256L.03, subd. 4b

Effective January 1, 2015

7. Retroactive Coverage

Provides that the section of statute governing retroactive coverage (i.e., Minn. Stat. § 256L.05, subd.3c) will no longer apply and cannot be implemented by DHS once eligibility determination for MNCare is

conducted by the MNsure eligibility determination system.

Amends Minn. Stat. § 256L.05, subd.3c

Effective January 1, 2014

8. Waiting Period for Re-enrollment

Eliminates the four-month waiting period to re-enroll for persons who: (1) are disenrolled for nonpayment of premium; or (2) voluntarily disenroll.

Amends Minn. Stat. § 256L.06, subd.3

Effective the later of January 1, 2014 or upon federal approval

F. Program Delivery

1. Competitive Process

Requires DHS to establish a competitive process for contracting for standard health plans that is designed increase access to high-quality health care coverage options. Requires applicants to include documentation of the: (1) provision of culturally and linguistically appropriate services, including marketing materials, to enrollees; and (2) inclusion of essential community providers in provider networks. Requires coverage to be available January 1, 2015.

Adds Minn. Stat. § 256L.121, subds. 1 and 2

Effective May 24, 2013

2. Vendors

Requires DHS to consider proposals from "managed care-like entities" defined under the ACA implementing regulations.

Amends Minn. Stat. § 256L.12, subds. 1 and 2

Effective August 1, 2013

G. Program Funding

Requires DHS and MMB to: (1) conduct an assessment of relationship between various health care taxes and surcharges and the long-term solvency of the Health Care Access Fund (HCAF); (2) evaluate the stability and likelihood of long-term federal funding; and (3) determine the amount of state funding - in addition to federal BHP payments - that will be needed after December 31, 2019 for MNCare. Requires a report to the Legislature by January 15, 2014 with recommendations for necessary changes to state revenue for the HCAF.

Uncodified Section

Effective August 1, 2013

H. Healthy Minnesota Contribution Program

Repeals the Healthy Minnesota Contribution Program

Repeals Minn. Stat. § 256L.031

I. Other Repealed Sections

Repeals, among others, sections and subdivisions: (1) defining gross individual or gross family income; (2) defining volunteer firefighters and ambulance attendants as "qualified individuals" for MNCare; (3) referencing the obsolete General Assistance Medical Care program; (4) governing: (i) the voluntary disenrollment of military enrollees and their families; (ii) reapplication procedures generally; and (iii) provider payments; (5) governing general eligibility requirements for MNCare; and (6) governing eligibility for MNCare for: (i) children with family income greater than 275% FPG; and (ii) children residing in foster care or a juvenile residential correctional facility on the child's 18th birthday.

Repeals Minn. Stat. § 256L.01, subd. 4a (definition of gross income)

Repeals Minn. Stat. § 256L.07, subd. 9 (volunteer firefighters/ambulance attendants)

Repeals Minn. Stat. § 256L.04, subd. 9 (GAMC)

Repeals Minn. Stat. § 256L.07, subd. 5 (voluntary disenrollment of military)

Repeals Minn. Stat. § 256L.05, subd. 3b (reapplication procedures)

Repeals Minn. Stat. § 256L.11, subds. 5 and 6 (provider payments)

Repeals Minn. Stat. § 256L.07, subd. 1 (general MNCare eligibility requirements)

Repeals Minn. Stat. § 256L.04, subd. 1b (children over 275% FPG)

Repeals Minn. Stat. § 256L.07, subd. 8 (children in foster care or correctional facilities)

Effective January 1, 2014

LONG-TERM CARE

I. LONG TERM CARE: NURSING/BOARDING HOME RESIDENT RELOCATION

Chapter 63, Section 4 (HF 767)

Amends Minn. Stat. § 144A.161

Deletes Minn. Stat. § 144A.161, subs. 5b and 11

Effective August 1, 2013

A. New Key Definition

Defines "responsible party," to mean the resident's legal representative.

Amends Minn. Stat. § 144A.161 by adding subd. 1(j)

B. Admission of New Residents After Decision to Close Facility

Prohibits a facility that is closing from admitting any new residents on or after the date of the written notice of the closing required to be provided to residents.

Amends Minn. Stat. § 144A.161 by adding subd. 2(d)

C. Relocation Plan Amendments

1. Additions to Interdisciplinary Team

Adds the Office of the Ombudsman for Mental Health and Developmental Disabilities to the list of agencies the licensee must include as part of the interdisciplinary team responsible for coordinating and implementing the relocation plan.

Amends Minn. Stat. § 144A.161, subd. 5(a)

2. Addition of Recipients of Notice of Closure

Requires the 60 day notice before the proposed date of closing to be sent to - in addition to the resident and attending physician - the: (1) responsible party (replacing family or other designated representative); (2) resident's managed care organization if known; (3) county social services agency; (4) MDH; (5) DHS; (6) Office of Ombudsman for Long-Term Care; and (7) Office of Ombudsman for Mental Health and Developmental Disabilities.

Amends Minn. Stat. § 144A.161, subd. 5a

3. Addition of Recipients of Weekly Status Reports on Relocation Plans

Adds to the following organizations those to receive the weekly status reports: (1) Ombudsman for Long-Term Care; and (2) Ombudsman for Mental Health and Developmental Disabilities.

Amends Minn. Stat. § 144A.161, subd. 6(b)

4. Additions to Notice to Interdisciplinary Team

Adds the following to the list the licensee must send required information prior to or concurrent with notification to residents: (1) Ombudsman for Long-Term Care; and (2) Ombudsman for Mental Health and Developmental Disabilities. Clarifies that the information must include: (1) county of financial responsibility but only if the resident is enrolled in a Minnesota health care program; (2) only current diagnoses; (3) the responsible party (replacing family or other designated representative); (4) the managed care coordinator, or other care coordinator, if known; and (5) the managed care organization in which the resident is enrolled, if known.

Amends Minn. Stat. § 144A.161, subd. 5(b)

5. Changes to Licensee Responsibilities

a. For Relocation Site Visits and Relocation

Modifies the requirements regarding: (1) resident visits to relocation option sites; and (2) actual relocation. Requires the licensee to make available to the resident at no charge transportation: (1) for up to three site visits to facilities or other living options; and (2) to the new location. Limits the distance of alternative sites to the same county or contiguous counties (replacing within a 50 miles radius).

Amends Minn. Stat. § 144A.161, subd. 5e (site visits)

Amends Minn. Stat. § 144A.161, subd. 6(a) (actual relocation)

b. For Discharge Notice

Requires the licensee to provide, prior to the relocation of the resident: (1) a final written "discharge notice" (replacing "a final written notice"); and (2) the "effective" date of relocation. Removes the requirement to provide the notice seven days prior to relocation. Eliminates the option of a resident to waive the right to the notice.

Amends Minn. Stat. § 144A.161, subd. 5g

6. Relief of Licensee Responsibilities

Relieves the facility of the requirements to: (a) consult with the county social services agency on the availability and development of available resources and on the resident relocation process; and (b) request the attending physician provide or arrange for the release of medical information needed to update resident medical records and prepare all required forms and

discharge summaries. Deletes the requirements that licensees: (1) ensure "appropriate" discharge and relocation; (2) prepare a list of relocation options; and (3) provide residents and agencies with the phone and Web site address of the Senior Linkage Line.

Deletes Minn. Stat. § 144A.161, subd. 5a(c) (consultation of county)

Deletes Minn. Stat. § 144A.161, subd. 5b (attending physician duties)

Amends Minn. Stat. § 144A.161, subd. 5c (appropriateness of discharge)

Deletes Minn. Stat. § 144A.161, subd. 5c(b) (list of relocation options)

Deletes Minn. Stat. § 144A.161, subd. 5c(c) (Senior Linkage Line contact)

7. Change to County Social Service Agency Responsibilities

a. Relocation Costs

Eliminates the responsibility to allocate up to \$450 per nursing facility bed that is closing for resident relocation costs.

Deletes Minn. Stat. § 144A.161, subd. 11

b. Notice When Relocation is Halted

Requires, when relocation is halted, the county social services agency to notify the: (1) resident; (2) family; (3) responsible parties; (4) Office of the Ombudsman for Long-Term Care; (5) Office of the Ombudsman for Mental Health and Developmental Disabilities; and (6) resident's managed care organization.

Amends Minn. Stat. § 144A.161, subd. 8

OTHER HEALTH CARE MATTERS

I. HEALTH EQUITY REPORT

Chapter 108, Article 12, Section 102 (HF 1233)

Uncodified Section

Effective August 1, 2013

Directs MDH to report to the Legislature by February 1, 2014 on a plan for advancing health equity in Minnesota. Requires the report to, among other things: (1) assess health disparities in the state; (2) how health disparities relate to health equity; (3) identify policies, processes, and systems that contribute to health inequity; and (4) identify best practices to provide culturally responsive services and advance health equity.

II. GUARANTEED RENEWABILITY STUDY

Chapter 108, Article 12, Section 103 (HF 1233)

Uncodified Section

Effective August 1, 2013

Directs the Department of Commerce to: (1) study guaranteed renewability of health plans in the individual market; and (2) assess the need for legislation permitting the discontinuance or modification of health plan coverage in the individual market by a health carrier. Requires the Department of Commerce to: (1) consult with MDH, health carriers and consumer advocates; and (2) submit recommendations, with any necessary draft legislation, to the Legislature by February 1, 2014.

III. ATTORNEY GENERAL LEGAL OPINION

Chapter 108, Article 12, Section 107 (HF 1233)

Uncodified Section

Effective August 1, 2013

Directs the Attorney General - by October 1, 2013 - to issue a written legal opinion on whether a health plan is required to provide coverage of treatment for mental health and mental health-related illnesses, including autism spectrum disorders and any other mental health condition, as determined by criteria set forth in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association. Requires the Attorney General to provide the opinion to: (1) the legislative chairs of the Commerce and Health Policy Committees; (2) the Department of Commerce; (3) DHS; and (4) the MNsure board of directors.

HOUSING/REAL PROPERTY LAW

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I. CONTRACTS FOR DEED

Chapter 85, Article 6, Sections 6, 7, 8, 9, and 13 (HF 729)

Amends Minn. Stat. §§ 507.235, subd. 2; and 559.211, subd. 2

Adds Minn. Stat. §§ 559.201; and 559.202

Repeals Minn. Stat. § 507.235, subd. 4

Various Effective Dates

A. Provisions Affecting All Contracts for Deed

1. Penalties for Failure to Record

a. Civil Fine

Absolves a vendee from liability for a civil fine for failure to record a contract for deed if the vendee does not receive a copy of the contract in recordable form, as required under Minn. Stat. § 507.235, subd. 1.

Amends Minn. Stat. § 507.235, subd. 2

Effective August 1, 2013

b. Criminal Penalty

Abolishes any criminal liability for failure to record a contract for deed within the time provided under Minn. Stat. § 507.235, subd. 1.

Repeals Minn. Stat. § 507.235, subd. 4

Effective August 1, 2013

2. Availability of Action

Grants the court the authority to hear claims and grant relief for actions taken after the expiration of the contract for deed cancellation period provided under Minn. Stat. § 559.21.

Amends Minn. Stat. § 559.211, subd. 2

Effective August 1, 2013

B. Provisions Affecting Certain Contracts for Deed

1. Key New Definition

Defines "multiple seller" as a seller in four or more contracts for deed involving residential real property during the 12-month period that precedes either: (1) the date on which the purchaser executes a purchase agreement; or (2) if there is no purchase agreement, the date on which the purchaser executes a contract for deed.

Adds Minn. Stat. § 559.201, subd. 4

Effective August 1, 2013

2. Required Disclosures

a. Who Must Give Disclosure

Limits the requirement to give the disclosure to multiple sellers.

Adds Minn. Stat. § 559.201, subd. 1(a)

Effective August 1, 2013, and applies to transactions in which the contract for deed and the purchase agreement for the contract for deed, if any, were both executed on or after that date

b. Exemptions

Exempts multiple sellers from the disclosure requirements if the purchaser is represented by: (1) an attorney licensed in Minnesota; or (2) a real estate broker or salesperson, provided that the representation does not create a dual agency.

Adds Minn. Stat. § 559.201, subd. 2

Effective August 1, 2013, and applies to transactions in which the contract for deed and the purchase agreement for the contract for deed, if any, were both executed on or after that date

c. Disclosure Requirements

Requires the disclosure to the prospective purchaser be: (1) in writing; (2) signed and dated by the purchaser; and (3) affixed to the purchase agreement, or, if there is no purchase agreement, provided in a document separate from any other document.

Adds Minn. Stat. § 559.201, subd. 1(d) (writing, signature, date)

Adds Minn. Stat. § 559.201, subd. 1(b) (if purchase agreement)

Adds Minn. Stat. § 559.201, subd. 1(c) (no purchase agreement)

Effective August 1, 2013, and applies to transactions in which the contract for deed and the purchase agreement for the contract for deed, if any, were both executed on or after that date

d. Contents of the Disclosure

Requires a verbatim disclosure: (1) providing information for the prospective purchaser about risks and obligations of contracts for deed; and (2) offering advice about consumer protection actions recommended to be taken prior to entering into a contract for deed.

1) Information About Risks and Obligations

Informs the prospective purchaser, among other things: (1) that rental and foreclosure protections do not apply; (2) whether the contract makes the purchaser liable for obtaining homeowner's insurance, paying property taxes, and making repairs; (3) that a balloon payment will likely be necessary; (4) that breach can result in loss of previous payments and all rights to the property; (5) about recordation obligations; and (6) of the right to cancel.

Adds Minn. Stat. § 559.201, subd. 3

Effective August 1, 2013, and applies to transactions in which the contract for deed and the purchase agreement for the contract for deed, if any, were both executed on or after that date.

2) Advice

Recommends that, before entering into a contract for deed, a purchaser: (1) seek advice from a lawyer or the Minnesota Home Ownership Center; (2) get an appraisal; (3) get an inspection; (4) purchase title insurance; and (5) identify whether there are unpaid utility bills or liens on the property.

Adds Minn. Stat. § 559.201, subd. 3

Effective August 1, 2013, and applies to transactions in which the contract for deed and the purchase agreement for the contract for deed, if any, were both executed on or after that date.

e. Resolution of Disputes Regarding Delivery of Disclosure

Establishes a rebuttable presumption that the disclosure was not provided unless the original executed contract for deed contains a verbatim statement, initialed by the purchaser, acknowledging receipt of the disclosure.

Adds Minn. Stat. § 559.201, subd. 1(e)

Effective August 1, 2013, and applies to transactions in which the contract for deed and the purchase agreement for the contract for deed, if any, were both executed on or after that date.

3. Waiting Period

Prohibits multiple sellers and purchasers from executing a contract for deed sooner than five business days: (1) following execution of a purchase agreement, and delivery of the notice; or (2) if there is no purchase agreement, after the delivery of the notice.

Adds Minn. Stat. § 559.201, subd. 1(b) (if a purchase agreement)

Adds Minn. Stat. § 559.201, subd. 1(c) (if no purchase agreement)

Effective August 1, 2013, and applies to transactions in which the contract for deed and the purchase agreement for the contract for deed, if any, were both executed on or after that date

4. Right to Cancel

Gives a prospective purchaser the right to cancel purchase agreement without penalty within five business days after actually receiving the disclosure if the multiple seller fails to timely deliver the disclosure. Requires the multiple seller to promptly refund any payments upon cancellation. Extinguishes the right to cancel once a contract for deed is executed.

Adds Minn. Stat. § 559.201, subd. 4

Effective August 1, 2013, and applies to transactions in which the contract for deed and the purchase agreement for the contract for deed, if any, were both executed on or after that date.

5. Remedies for Failure to Timely Deliver Disclosure

Provides that a purchaser has a private right of action against a multiple seller for failure to timely provide the disclosure. Makes the violator liable for: (1) the greater of actual damages or statutory damages of \$2,500; and (2) reasonable attorney fees and court costs. Provides for treble damages for a knowing violation. Makes the remedies cumulative. Provides that a violation has no effect on the validity of the contract.

Adds Minn. Stat. § 559.201, subd. 5 (remedies)

Adds Minn. Stat. § 559.201, subd. 6 (effect of violation on contract)

Effective August 1, 2013, and applies to transactions in which the contract for deed and the purchase agreement for the contract for deed, if any, were both executed on or after that date.

6. Duty to Account

Requires the seller, upon reasonable request of the purchaser, to provide no more than once a year an accounting of the: (1) payments made to date; (2) interest paid to date; and (3) balance remaining.

Adds Minn. Stat. § 559.201, subd. 7

Effective August 1, 2013, and applies to transactions in which the contract for deed and the purchase agreement for the contract for deed, if any, were both executed on or after that date.

7. No Waiver Provision

Prohibits waiver of any rights provided under the new provisions.

Adds Minn. Stat. § 559.201, subd. 7

Effective August 1, 2013, and applies to transactions in which the contract for deed and the purchase agreement for the contract for deed, if any, were both executed on or after that date.

II. FORECLOSURE ADVICE NOTICE

Chapter 115, Section 2 (SF 1276)

Amends Minn. Stat. § 580.041, subd. 1b

Effective August 1, 2013

Changes the obligation of a foreclosing party to provide the statutory foreclosure advice notice by requiring delivery only up to the day of the foreclosure sale, rather than up to the day of redemption.

III. FORECLOSURE RELIEF

Chapter 115, Sections 1, 3, 4, and 5 (SF 1276)

Amends Minn. Stat. §§ 580.02; 582.25; and 582.27

Adds Minn. Stat. § 582.043

Various Effective Dates

A. Applicability

1. Limitations

Limits applicability of new provisions to first lien mortgages that: (1) are governed by either foreclosures by action (judicial) or foreclosures by advertisement (nonjudicial) statutes (Chapter 580 and 581); (2) are secured by one-to-four-family residential real property that is the principal residence of the owner; and (3) do not secure a loan for business, commercial, or agricultural purposes.

Adds Minn. Stat. § 582.043, subd. 2

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., ch. 581, recorded on or after August 1, 2013

2. Exemptions for "Small Servicers"

a. Time Limited Exemption

Until August 1, 2014, exempts a servicer that has conducted 125 or fewer foreclosure sales during the preceding 12 months.

Adds Minn. Stat. § 582.043, subd. 1(f)

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., ch. 581, recorded on or after August 1, 2013

b. Permanent Exemption

Exempts a servicer that either: (1) is a small servicer as defined in proposed rules of the Consumer Financial Protection Bureau (i.e., services 5,000 or fewer mortgage loans in which the servicer or an affiliate is the creditor or assignee; or (2) is a Housing Finance Agency as defined in federal regulations.

Adds Minn. Stat. § 582.043, subd. 1(f)

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., ch. 581, recorded on or after August 1, 2013

B. New Key Definitions

1. "Foreclosure Sale Date"

"Foreclosure sale date" defined to mean the later of either the date: (1) contained in the notice of foreclosure that has been served or published; or (2) to which the sale has been postponed, as is provided under Minn. Stat. § 580.07, subd. 2.

Adds Minn. Stat. § 582.043, subd. 1(b)

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., ch. 581, recorded on or after August 1, 2013

2. "Loss Mitigation Option"

Defines "loss mitigation option" to mean "a temporary or permanent loan modification, a forbearance agreement, a repayment agreement, a principal reduction, capitalizing arrears, or any other relief, intended to allow a mortgagor to retain ownership of the property."

Adds Minn. Stat. § 582.043, subd. 1(c)

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., ch. 581, recorded on or after August 1, 2013

C. Loss Mitigation Requirements

Requires servicers to: (1) notify the homeowner in writing of available loss mitigation options offered by the servicer prior to referral to foreclosure; (2) exercise reasonable diligence to facilitate submission and review of loss mitigation applications and supporting documents; (3) provide a reasonable amount of time for submission of documents; (4) evaluate the homeowner for eligibility for a loss mitigation option prior to referral to foreclosure if the servicer has timely received a loss mitigation application; (5) timely offer the homeowner a loan modification or other loss mitigation option for which the homeowner is eligible; and (6) comply with any applicable appeal period and procedures.

Adds Minn. Stat. § 582.043, subd. 5

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., ch. 581, recorded on or after August 1, 2013

D. Procedures to Avoid Dual Tracking

Note: "Dual Tracking" is the practice of simultaneously proceeding with a foreclosure and considering an application for a loan modification or other option to avert foreclosure.

1. Prohibitions

a. Prior to Referral to Foreclosure

Prohibits a servicer from initially referring a mortgage loan for foreclosure if the servicer has received a loss mitigation application that has not yet been acted upon.

Adds Minn. Stat. § 582.043, subd. 6(a)

Effective October 31, 2013

b. After Referral to Foreclosure But Before Sale Scheduled

Prohibits a servicer from conducting a foreclosure sale or seeking a judgment of foreclosure if the servicer has received a loss mitigation application that has not yet been acted upon.

Adds Minn. Stat. § 582.043, subd. 6(b)

Effective October 31, 2013

c. After Foreclosure Sale Scheduled But Before Sale Held

Prohibits a servicer from conducting - and requires a servicer to halt -- a foreclosure sale or seeking a judgment of foreclosure if the servicer has received a loss mitigation application by midnight of the seventh business day prior to the foreclosure sale date.

Adds Minn. Stat. § 582.043, subd. 6(c)

Effective October 31, 2013

2. Permitted Practices

Permits a servicer to proceed with the foreclosure action if the homeowner: (1) is provided written notification of the ineligibility for a loss mitigation option and any appeal period has expired; (2) fails to accept a written loss mitigation offer where written offer is applicable and acceptance is required; or (3) declines, in writing, a loss mitigation offer.

Adds Minn. Stat. § 582.043, subd. 6(a), (b), and (c)

Effective October 31, 2013

E. New Requisite to Foreclosure by Advertisement

Adds a fifth requisite to foreclose by advertisement: compliance with new provisions concerning loss mitigation and dual tracking.

Amends Minn. Stat. § 580.02

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., ch. 581, recorded on or after August 1, 2013

F. Enforcement

1. Right to Bring an Action

Provides a homeowner with a cause of action for violations of the loss mitigation and dual tracking provisions to halt or set aside a foreclosure sale and provides for attorney fees and costs.

Adds Minn. Stat. § 582.043, subd. 7(a)

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., ch. 581, recorded on or after August 1, 2013

2. *Qualifications on Bringing an Action*

a. Time Limit to Bring Action

Requires a claim to be brought before the end of the applicable redemption period.

Amends Minn. Stat. § 582.25 (validating foreclosure sales)

Amends Minn. Stat. § 582.27, subd. 1 (curative provisions)

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., ch. 581, recorded on or after August 1, 2013.

b. Recordation of Lis Pendens

Requires that a lis pendens must be recorded prior to the end of the redemption period in order for a claim to be brought. Establishes a conclusive presumption that the servicer has complied with the new provisions if the lis pendens is not timely recorded.

Adds Minn. Stat. § 582.043, subd. 7(b)

Effective August 1, 2013 for foreclosures with a notice of pendency under Minn. Stat. § 580.032, or a lis pendens for a foreclosure under Minn. Stat., ch. 581, recorded on or after August 1, 2013

IV. HOMESTEAD EXEMPTION

Chapter 135, Article 2, Section 8 (HF 1221)

Amends Minn. Stat. § 510.02, subd. 1

Effective May 25, 2013

Increases the homestead exemption to: (1) \$390,000 (from \$300,000); and (2) \$975,000 (from \$750,000) if used for agricultural purposes.

V. HOUSING DISPARITIES

Chapter 85, Article 1, Section 4, Subdivisions 2 and 6 (HF 729)

Appropriations Article

Effective July 1, 2013

A. Reducing Homeownership Gap

Directs the Minnesota Housing Finance Agency, through its Challenge Program and Home Ownership Assistance Fund, to strengthen efforts to address the disparity rate in homeownership between white households and indigenous American Indians and communities of color.

Appropriates \$1.2 million each year of the biennium for housing projects for American Indians.

B. Increasing Culturally Specific Homeownership Education and Training

Authorizes the Minnesota Housing Finance Agency to prioritize grants made under the Homeownership, Education, Counseling, and Training Program to culturally specific groups who are providing services to members of their communities.

VI. LIABILITY FOR WRONGFUL RECORDING OF SATISFACTION OF MORTGAGE

Chapter 10 (HF 87)

Adds Minn. Stat. § 507.403, subd. 5a

Effective March 22, 2013 and is retroactive

Imposes liability wrongfully, erroneously, or without authority executing or recording a certificate of satisfaction of a mortgage.

A. Who May Be Liable

Holds the following liable: (1) a person; or (2) an entity on whose behalf the certificate is wrongfully, erroneously, or without authority executed or recorded.

B. What is Recoverable

Authorizes recovery of: (1) actual damages; (2) reasonable attorney fees; (3) costs; and disbursements.

C. Effect of Wrongful Recording on Mortgagor or Successor's Obligations

Provides that the execution or recording of a wrongful, erroneous, or unauthorized certificate does not relieve the mortgagor or the mortgagor's successors or assigns from any personal liability on the obligations secured by the mortgage.

VII. RENTERS' CREDIT

Chapter 143, Article 1, Section 3 (HF 677)

Amends Minn. Stat. § 290A.04, subd. 2a

Effective for claims based on rent paid in 2013 and following years

Increases the appropriation for Renters' Credit by \$15.5 million in fiscal year 2015, providing a larger credit to about 79,000 households currently eligible and making about 30,000 more households eligible.

Note: Approximately 364,000 households are expected to receive the credit in fiscal year 2015.

JUVENILE/YOUTH LAW

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I. TRIBAL PLACEMENTS - POST TERMINATION OF PARENTAL RIGHTS

Chapter 65 (SF 250)

Amends Minn. Stat. § 260.771, subd. 3

Effective August 1, 2013

Statutorily overrules decision of the Minnesota Supreme Court in *In Re Welfare of R.S.*, 805 N.W. 2d 44 (Minn. 2011). Requires the court, in proceedings for Indian children with original state court jurisdiction that are in a preadoptive or adoptive placement stage, to transfer jurisdiction to the tribe unless: (1) good cause is established; or (2) the tribe declines jurisdiction. Specifies that the terms "preadoptive placement" and "adoptive placement" have the meanings set forth in existing law found at Minn. Stat. § 260.755, subd. 3.

II. FAMILY REUNIFICATION ACT

Chapter 30 (SF 422)

Amends Minn. Stat. § 260C.101, subd. 2

Adds Minn. Stat. § 260C.329

Effective August 1, 2013

Note: This Act establishes a statutory procedure for, in limited circumstances the physical and legal reunification of parent and child.

A. Key Definition

Defines the term "reestablishment of the legal parent and child relationship" (reestablishment) to mean: (1) the physical reunification of a child under state guardianship and a previously terminated legal parent; and (2) the restoration of all rights, powers, privileges, immunities, duties, and obligations that were severed and terminated by the court.

Adds Minn. Stat. § 260C.329, subd. 2

B. Limitation of Who Can Bring Petition for Restoration of Rights

Limits the right to bring a petition for reestablishment to only the county attorney.

Adds Minn. Stat. § 260C.329, subd. 3

C. When Petition May Be Brought

Provides that a petition may be brought only if: (1) both the county social services agency and the county attorney agree that reestablishment is in the child's best interests; (2) the parent has corrected the conditions that led to an order terminating parental rights; (3) the parent is willing and has the capability to provide day-to-day care and maintain the health, safety, and welfare of the child; (4) the child has been in foster care for at least 36 months; (5) the child is at least 15 years of age; and (6) the child has not been adopted and is not the subject of an adoption placement agreement.

Adds Minn. Stat. § 260C.329, subd. 3

D. Circumstances Under Which a Petition May Not Be Brought

Prohibits the county attorney from bringing a petition for reestablishment if the parent has: (1) previously had parental rights terminated based on a finding in a legal proceeding of either sexual abuse or other conduct that resulted in the death of a minor; or (2) has been convicted of an "egregious harm" crime (enumerated Minn. Stat. § 260C.007, sub. 14).

Adds Minn. Stat. § 260C.329, subd. 4

E. Jurisdiction and Venue

Grants the juvenile court original and exclusive jurisdiction.

Amends Minn. Stat. § 260C.101, subd. 2

F. Venue

Mandates that the petition for reestablishment must be brought in the court that issued the order for guardianship and legal custody and conducts the reviews required under section 260C.607.

Adds Minn. Stat. § 260C.329, subd. 6

G. Procedure

1. Service

Requires service of the petition for reestablishment on: (1) the child; (2) the parent; (3) the child's guardian ad litem; and (4) the child's tribe if the child is subject to the Indian Child Welfare Act.

Adds Minn. Stat. § 260C.329, subd. 7

2. Evidentiary Standard

Permits the court to grant the petition only if it finds by clear and convincing evidence that: (1) the threshold criteria have been met (e.g., the parent has corrected the conditions leading to termination); (2) reestablishment is in the child's best interests; and (3) the child desires to reside with the parent.

Adds Minn. Stat. § 260C.329, subd. 8

H. Effect of Reestablishment Order

Provides that, as of the effective date of a court order: (1) the child is the legal child of the parent; (2) the parent whose rights were terminated under a previous order of the court is restored to the status of legal parent; (3) the order placing the child under guardianship is dismissed; and (4) permanent legal and physical custody of the child is awarded to the parent. Clarifies that a reestablishment order has no effect on: (1) the legal rights of any other terminated parent; or (2) any legal sibling relationship.

Adds Minn. Stat. § 260C.329, subd. 11

Note: The Family Reunification Act summary was prepared by Ron Elwood, Supervising Attorney, Legal Services Advocacy Project. Phone: 651-842-6909. E-mail: relwood@mnlsap.org

III. JUVENILE DELINQUENCY RECORDS - ELECTRONIC ACCESS

Chapter 109 (HF 392)

Adds Minn. Stat. § 260B.171, subd. 9

Effective January 1, 2014 and applies to delinquency cases filed on or after that date

Prohibits public access to electronic court records in juvenile delinquency cases that have public hearings under Minn. Stat. § 260B.163, subd. 1 (i.e., felony offenses for children age 16 or older) unless: (1) a motion for certification as an adult has been filed by the prosecutor; (2) the prosecutor designated or requested prosecution as an Extended Jurisdiction Juvenile (EJJ); or (3) the juvenile was adjudicated as delinquent on a crime of violence (defined in Minn. Stat. § 624.715, subd. 5) not codified in Minnesota Statutes, Chapter 152 (drug offenses). Prohibits public access to electronic records in these cases if the prosecutor and juvenile agree.

IV. HOMELESS YOUTH ACT

Chapter 108, Article 3, Section 33 (HF 1233)

Amends Minn. Stat. § 245K.45

Effective July 1, 2013

A. Name

Changes the name of the Runaway and Homeless Youth Act to the Homeless Youth Act.

B. Grants

Establishes a Homeless Youth Act grant fund. Directs DHS to award grants to providers who work to reduce youth homelessness, including providers: (1) serving homeless youth or youth at risk of homelessness; (2) providing street and community or drop-in services; (3) providing emergency shelter; and (4) providing integrated supportive housing and transitional living. Allows flexible statewide spending depending upon areas of need.

C. Report

Requires DHS, beginning in February 2015, to report biennially to the Legislature on: (1) areas of the state with the greatest need for services and housing; (2) the distribution of grants; and (3) outcomes for youth served.

IV. HABITUAL TRUANT - COMPULSORY EDUCATION AGE

Chapter 116, Article 3, Sections 1, 2, and 31 (HF 630)

Amends Minn. Stat. §§ 120A.22, subds. 5 and 8; and 260C.007, subd. 19

Effective beginning in the 2014 - 2015 school year

Raises the minimum compulsory education age from 16 to 17. Redefines the term "habitual truant" to reflect the change in the compulsory education age.

VI. SAFE HARBOR FOR SEXUALLY EXPLOITED YOUTH

A. Definitions

Chapter 108, Article 3, Sections 37 - 40 and Section 48 (HF 1233)

Amends Minn. Stat. §§ 260B.007, subds. 6 and 16; and 260C.007, subds. 6 and 31

Repeals Minn. Stat. § 609.093

Various Effective Dates

1. Definition of Delinquent Child

Amends the definition of delinquent child to include any child, regardless of age, if the child is alleged to have engaged in conduct which would, if committed by an adult, violate any federal, state, or local law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct (i.e., is a sexually exploited youth).

Amends Minn. Stat. § 260B.007, subd. 6

Effective August 1, 2014, and applies to offenses committed on or after that date

2. Definition of Sexually Exploited Youth

Amends the definition of "sexually exploited youth" to include youth who are victims of criminal sexual conduct in the third degree (See Minn. Stat. § 609.344).

Amends Minn. Stat. § 260C.007, subd. 31

Effective May 24, 2013

3. Repeal of Diversion Program

Repeals the diversion program for juvenile prostitutes.

Note: This change is consistent with the overall policy to treat juvenile prostitutes as crime victims in child protection cases, rather than as criminal/delinquent offenders.

Repeals Minn. Stat. § 609.093

Effective May 24, 2013

B. Statewide Program

Chapter 108, Article 12, Sections 43 - 45; and Article 14, Sections 2 and 3 (HF 1233)

Adds Minn. Stat. §§ 145.4716; 145.4717; and 145.4718

Effective July 1, 2013

Creates a statewide "No Wrong Door Program" for sexually exploited youth.

1. Statewide Director

Creates a Statewide Director position for the program within the Department of Health. Enumerates the director's duties to include, among other things: (1) identifying best practices in serving sexually exploited youth; (2) collecting, organizing, and disseminating information on sexual exploitation and resources across the state; (3) maintaining a resource list on the Department of Health website; (4) developing and providing comprehensive training, including providing technical assistance to the regional navigators; and (5) applying for any federal anti-trafficking funds that could benefit victims in Minnesota.

2. Regional Navigator Grants

Creates Regional Navigator positions for each of six geographical regions to be established by the Department of Health. Authorizes the Statewide Director to award grants to each Regional Navigator. Requires each Regional Navigator to annually submit a report.

3. Evaluation

Requires the Statewide Director to conduct (or contract to conduct) comprehensive evaluations of Safe Harbor for Sexually Exploited Youth program. Requires: (1) the initial evaluation to be completed by June 30, 2015 and submitted to the Commissioner of the Department of Health by September 1, 2015; and (2) subsequent evaluations every two years. Requires the evaluations to consider whether: (1) the program is reaching intended sexually exploited youth; (2) services are available, accessible, and adequate; (3) identification of sexually exploited youth has increased; (4) there is coordination of investigations; (5) there is adequate access to services and housing; (6) there has been improved effectiveness of services; and (7) funds from prostitution-related forfeitures under Minn. Stat. § 609.3241 are being used for investigation, prosecution and services for sexually exploited youth.

Note: Laws 2013, Chapter 80 contains changes that direct a portion of restitution forfeitures to these services.

VII. VULNERABLE CHILDREN AND ADULTS ACT FUNDING

Chapter 108, Article 3, Section 34 (HF 1233)

Amends Minn. Stat. § 245M.40, subd. 1

Effective July 1, 2013

Freezes funding formula from the Vulnerable Children and Adults Act (formerly the CCSA fund) at the 2013 funding level. Prohibits the Department of Human Services, without first seeking public review and input, from: (1) changing the formula; or (2) seeking Legislative approval to change the formula.

NORTHSTAR CARE ACT

(Juvenile/Youth Law)

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NORTHSTAR CARE ACT FOR CHILDREN

Chapter 108, Articles 17, Sections 1-24 and Article 14, Section 2 (HF 1233)

Amends Minn. Stat. §§ 256.82, subds. 2 and 3; 257.85, subds. 2, 5, and 6; and 260C.446

Adds Minn. Stat. §§ 256.0112, subd. 10; 256N.001 - 256N.28; 259A.12; 260C.441; 260C.4412; and 260C.4413

Repeals Minn. Stat. §§ 256.82, subd. 4 (rulemaking for state payments); 260C.441 (payments of state/county placement costs); Minnesota Rules, part 9560.0650, subp. 1, 3, and 6; part 9560.0651; and part 9560.0655 (all address difficulty of care payments/assessments)

Effective January 1, 2015

Creates Northstar Care Act for Children, codified in a new chapter of law, Minnesota Statutes, Chapter 256N. Its central premise is to equalize payment rates between foster care, relative care assistance, and adoption assistance for children who are placed outside the home, including foster care, adoption placements, and permanent transfers of legal custody.

The Act is comprehensive, specifying lower payments for children under age 6 and including new assessment methods, new difficulty of care payments, and new background study and other requirements consistent with IV-E eligibility.

Overview

Generally, children:

- Currently in out of home placements will continue under existing programs unless the placement changes;
- Placed in family foster care (as defined by the new law) or children who change placements prior to December 31, 2014 will be in the “Pre-Northstar Program”; and
- Who enter or change placement on or after January 1, 2015 will enter the Northstar Care Program

Note: There are exceptions to these general provisions as described below.

Legislative Intent/Policy Purpose (Section 5)

- Public policy is to keep children safe from harm, and when they are harmed to provide immediate, appropriate service to ensure safety;
- Children do best in stable, safe, nurturing homes with lifelong relationships with adults;
- Whenever safely possible children are best served when nurtured and raised by their parents;
- When that isn’t possible, an out-of-home placement may be necessary;

- If a child is removed from home, reunification should be sought if it can be accomplished safely;
- When reunification is not possible, another permanent home must be made available quickly, drawing from kinship sources whenever possible;

Larger Policy Statement/Purpose Specific to Northstar Care Payments:

“Minnesota understands the importance of having a comprehensive approach to temporary out-of-home care and to permanent homes for children who cannot be reunited with their families. It is critical that stable benefits be available to caregivers to ensure that the child’s needs can be met whether the child’s situation and best interests call for temporary foster care, transfer of permanent legal and physical custody to a relative, or adoption. Northstar Care for Children focuses on the child’s needs and strengths, and the actual level of care provided by the caregiver, without consideration for the type of placement setting. In this way caregivers are not faced with the burden of making specific long-term decisions based upon competing financial incentives.”

I. Transition to Northstar Care Act in 2015

(Sections 1-3, 7, 15, 16-20)

A. Continuance of Requirements and Benefits

Except as otherwise provided, children in foster care, adoption assistance, or relative custody prior to January 1, 2015 will continue with the same requirements and benefits unless or until: (1) their placement changes; (2) permanency is obtained; or (3) DHS initiates a transition to Northstar Care as permitted in Chapter 256N (described in more detail within information on each payment type herein).

(Section 7)

B. “Pre-Northstar Foster Care Program”

Children in family foster care on or before December 31, 2014, will be in the “Pre-Northstar Care Foster Care Program”

(Sections 3 and 20)

1. What “Family Foster Care” Includes

- Emergency relative placements (*See* Minn. Stat. § 245A.035);
- Licensed foster family or foster residence settings, or treatment foster care settings, served by a public or private child care agency; (*See Minnesota Rules parts 2960.300-2960.3340 (licensing) and 9545.0755-9545.0845 (authorized agencies)*)
- Family foster care homes approved by a tribe; and
- Unlicensed, supervised settings for foster youth age 18-21.

2. When Participation in the Pre-Northstar Care Foster Care Program Ends

Participation in the Pre-Northstar Care Foster Care Program ends when a child:

- Is reunified with parent or other relative;
- Is adopted;
- Has permanent legal and physical custody transfers;
- Moves to a new foster care home, or experiences another event that ends the current placement episode; or
- Reaches age 21.

3. *County or Tribe Financial Responsibility*

The county or tribe of financial responsibility is responsible for:

- a. The local share of foster care maintenance and difficulty of care payments;
- b. The initial clothing allowance;
- c. Administrative payments to agencies;
- d. Any other authorized supportive services payments, except as otherwise provided by law; and
- e. Documenting the difficulty of care foster care and difficulty of care assessment rate (and each condition incorporated):
 - Every 12 months;
 - At the foster parent's request; or
 - If the child's need changes in that placement.

The county/tribe of financial responsibility may continue (not an exclusive list):

- a. Local funds of county money to reimburse foster parents for home damage done by a foster child, or additional insurance premiums for a foster child with a driver's license/permit; and
- b. Paying fees (but not as foster care maintenance) for specific services provided by a foster care parent, based on the parent's skills, training, and experiences.

4. *Payment Rates*

Payment rates will be those in effect as of January 1, 2013;
(Section 3)

5. *Difficulty of Care Payments*

Difficulty of care payments must be maintained at the current rate (*see Minnesota Rules, parts 9560.0652 and 9560.0653*) and reassessed under existing reassessment tool (*see Minnesota Rules part 9560.0654*).

Note: *When the population of children in this program is less than 10% of the 2012 population, DHS can use the assessment tool in the Northstar Care Program.*

6. *What Must Remain the Same in the Pre-Northstar Foster Care Program:*

The following elements must remain the same in the Pre-Northstar Foster Care Program:

- (1) Monthly payments to the family foster care provider;
- (2) Notice and appeal procedures. (*See Minnesota Rules, part 9560.0665*);
- (3) Medical Assistance eligibility determinations. (*See Minn. Stat. § 256B.055*)

7. *Income to the Child in Pre-Northstar Foster Care Program*

- (1) If a child is eligible to receive Retirement Survivors Disability Insurance (RSDI), Supplemental Social Security (SSI) or IV-E foster care maintenance payments (*see 42 USCA §§ 670-676*), that income is to be used first to meet the child's needs in family foster care; and every effort must be made to security IV-E foster care funds to reimburse the county/tribe.

- (2) If a child qualifies for home and community-based waiver services (community alternative care, traumatic brain injury or community alternatives for disabled individuals), those funds are not first used to meet the child's needs. In other words, they are not substituted for county/tribe funds.
- (3) If waived services are provided, assessment for both the maintenance and difficulty of care must be done by the county/tribe pursuant to Minnesota Rules, part 9560.0654 (difficulty of care assessments).
 - If additional services are needed that cannot be provided by the foster care program, the needs must be referred to the waived service program.

8. *Relative Custody Assistance Transition*
(Sections 16 - 18)

Statutory provisions regarding Relative Custody Assistance and Relative Custody Assistance agreements are limited to orders dated or agreements signed or in effect on or before November 26, 2014;

- If agreements were signed but not in effect on November 26, 2014 because the transfer of legal custody was not finalized, they must be renegotiated under the requirements of the Northstar Care Act provisions.

9. *Adoption Assistance Agreements*
(Section 19)

- (1) No new adoption assistance agreements may be executed under current law after November 26, 2014; rather they must meet the requirements of the Northstar Care Act provisions.
- (2) Agreements on or prior to that date must continue under existing statute and rule, unless the parents or DHS renegotiate the agreement under the Northstar Care Act. (See *Minn. Stat. § 256N.28, subd. 7*)
- (3) Agreements that were signed on or before November 26, 2014 but the adoption was not finalized on that date must be renegotiated under the Northstar Care Act.
- (4) As of November 26, 2014, children whose adoption agreements were signed and effective on or before that date will be considered to be in the Pre-Northstar Adoption Assistance Program, and existing law will also be renamed at that time.

C. Transition from Pre-Northstar Foster Care Program to Northstar Care
(Section 15, subd. 7)

1. *Foster Care*

- a. A child in the Pre-Northstar Foster Care program who stays with the same caregiver will continue to receive Pre-Northstar Foster Care Program benefits, unless transitioned to Northstar Care;

DHS may transfer a child to Northstar Care upon the first event on or after January 1, 2015 -- *See Section 8* – where the child:

- (1) Moves to a different foster home or unlicensed supervised independent living setting;
- (2) Has his/her legal and physical custody transferred to a relative and becomes eligible for guardianship assistance (if applicable);
- (3) Is adopted and becomes eligible for adoption assistance (if applicable); or
- (4) Re-enters foster care after a reunification or trial home visit.
- (5) Upon eligibility, is assessed under the Northstar Care provisions (*See Section 11*) and its additional transition provisions (*See Section 15*).

2. *Guardianship and Adoption Assistance*

a. **Transitioning from Pre-Northstar Foster Care Program to Northstar**

DHS may seek a transition from Pre-Northstar Foster Care Program to Northstar:

- (1) In accordance with the following priorities (in this order):
 - Financial and budgetary constraints;
 - Complying with federal regulations;
 - Converting Pre-Northstar Care Relative Custody Assistance (*see Minn. Stat. § 257.85*) to Northstar Care Guardianship Assistance;
 - Done by declaration and appropriate notice to the caregiver;
 - Must not reduce the child's benefit;
 - Improving a child's or children's permanency;
 - Maintaining a child's or children's permanency;
 - Accessing additional federal funds; and
 - Administrative simplification.
- (2) By offering a transition from existing adoption assistance (*See Minnesota Statutes, Chapter 259A*):
 - Caregiver must agree to the offer before the transition can occur
 - Caregiver must have a maximum of 90 days to review and accept the DHS offer;
 - If the agreement is not accepted by the caregiver, the Pre-Northstar adoption assistance agreement (under Chapter 259A) continues until it terminates or another offer is accepted.

b. **Terms of Transitions**

- (1) Transitions shall be accomplished according to procedures, deadlines, and requirements specified by DHS.

- (2) Assessments will be equivalent to the most recently completed supplemental difficulty of care assessment;
 - Unless DHS determines that a new assessment under Northstar Care would be more appropriate and in line with the transition priorities above.
- (3) Specific Transition Rate payments for Northstar Care will be used (*see Section 13, subd. 5*), unless DHS determines that the regular base and supplemental difficulty of care payments would be more appropriate and consistent with the transition priorities (*see above*).

II. Northstar Care Act Provisions

(Sections 4-15)

A. Citation/Purpose

(Sections 4-5)

See summary sections above for these provisions.

B. Definitions

(Section 6)

Note: Definitions taken directly from Act provisions except where brackets appear.

1. *Adoption Assistance*

"Adoption assistance" means medical coverage as allowable under section 256B.055 and reimbursement of nonrecurring expenses associated with adoption and may include financial support provided under agreement with the financially responsible agency, the commissioner, and the parents of an adoptive child whose special needs would otherwise make it difficult to place the child for adoption to assist with the cost of caring for the child. Financial support may include a basic rate payment and a supplemental difficulty of care rate.

2. *Assessment*

"Assessment" means the process under section 256N.24 [Assessments] that determines the benefits an eligible child may receive under section 256N.26 [Benefits and Payments].

3. *At-Risk Child*

"At-risk child" means a child who does not have a documented disability but who is at risk of developing a physical, mental, emotional, or behavioral disability based on being related within the first or second degree to persons who have an inheritable physical, mental, emotional, or behavioral disabling condition, or from a background which has the potential to cause the child to develop a physical, mental, emotional, or behavioral disability that the child is at risk of developing. The disability must manifest during childhood.

4. *Basic Rate*
"Basic rate" means the maintenance payment made on behalf of a child to support the costs caregivers incur to provide for a child's needs consistent with the care parents customarily provide, including: food, clothing, shelter, daily supervision, school supplies, and a child's personal incidentals. It also supports typical travel to the child's home for visitation, and reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement.
5. *Caregiver*
"Caregiver" means the foster parent or parents of a child in foster care who meet the requirements of emergency relative placement, licensed foster parents under chapter 245A [Licensing], or foster parents licensed or approved by a tribe; the relative custodian or custodians; or the adoptive parent or parents who have legally adopted a child.
6. *Commissioner*
"Commissioner" means the commissioner of human services or any employee of the Department of Human Services to whom the commissioner has delegated appropriate authority.
7. *County Board*
"County board" means the board of county commissioners in each county.
8. *Disability*
"Disability" means a physical, mental, emotional, or behavioral impairment that substantially limits one or more major life activities. Major life activities include, but are not limited to: thinking, walking, hearing, breathing, working, seeing, speaking, communicating, learning, developing and maintaining healthy relationships, safely caring for oneself, and performing manual tasks. The nature, duration, and severity of the impairment must be considered in determining if the limitation is substantial.
9. *Financially Responsible Agency*
"Financially responsible agency" means the agency that is financially responsible for a child. These agencies include both local social service agencies under section 393.07 [Local Service Agencies Powers and Duties] and tribal social service agencies authorized in section 256.01, subdivision 14b [American Indian Child Welfare Projects], as part of the American Indian Child Welfare Initiative, and Minnesota tribes who assume financial responsibility of children from other states. Under Northstar Care for Children, the agency that is financially responsible at the time of placement for foster care continues to be responsible under section 256N.27 [Northstar Federal, State and Local Shares] for the local share of any maintenance payments, even after finalization of the adoption or transfer of permanent legal and physical custody of a child.
10. *Guardianship Assistance*
"Guardianship assistance" means medical coverage, as allowable under section 256B.055 [Medical Assistance Eligibility Categories], and reimbursement of nonrecurring expenses associated with obtaining permanent legal and physical custody of a child, and may include financial support provided under agreement with the financially responsible agency, the commissioner, and the relative who has

received a transfer of permanent legal and physical custody of a child. Financial support may include a basic rate payment and a supplemental difficulty of care rate to assist with the cost of caring for the child.

11. *Human Services Board*

"Human services board" means a board established under section 402.02 [Local Boards]; Laws 1974, chapter 293; or Laws 1976, chapter 340.

12. *Initial Assessment*

"Initial assessment" means the assessment conducted within the first 30 days of a child's initial placement into foster care under section 256N.24, subdivisions 4 and 5 [Assessments].

13. *Legally Responsible Agency*

"Legally responsible agency" means the Minnesota agency that is assigned responsibility for placement, care, and supervision of the child through a court order, voluntary placement agreement, or voluntary relinquishment. These agencies include local social service agencies under section 393.07 [Local Services Agencies Powers and Duties], tribal social service agencies authorized in section 256.01, subdivision 14b [American Indian Child Welfare Projects], and Minnesota tribes that assume court jurisdiction when legal responsibility is transferred to the tribal social service agency through a Minnesota district court order. A Minnesota local social service agency is otherwise financially responsible.

14. *Maintenance Payments*

"Maintenance payments" means the basic rate plus any supplemental difficulty of care rate under Northstar Care for Children. It specifically does not include the cost of initial clothing allowance, payment for social services, or administrative payments to a child-placing agency. Payments are paid consistent with section 256N.26 [Benefits and Payments].

15. *Permanent Legal and Physical Custody*

"Permanent legal and physical custody" means a transfer of permanent legal and physical custody to a relative ordered by a Minnesota juvenile court under section 260C.515, subdivision 4 [Child Protection, Disposition Order of Transfer of Legal Custody to a Relative], or for a child under jurisdiction of a tribal court, a judicial determination under a similar provision in tribal code which means that a relative will assume the duty and authority to provide care, control, and protection of a child who is residing in foster care, and to make decisions regarding the child's education, health care, and general welfare until adulthood.

16. *Reassessment*

"Reassessment" means an update of a previous assessment through the process under section 256N.24 [Assessments] for a child who has been continuously eligible for Northstar Care for Children, or when a child identified as an at-risk child (Level A) under guardianship or adoption assistance has manifested the disability upon which eligibility for the agreement was based according to section 256N.25, subdivision 3, paragraph (b) [Renegotiation of Adoption Assistance/Guardianship Assistance for At-Risk Children]. A reassessment may be used to update an initial assessment, a special assessment, or a previous reassessment.

17. *Relative*

"Relative," as described in section 260C.007, subdivision 27, means a person related to the child by blood, marriage, or adoption, or an individual who is an important friend with whom the child has resided or had significant contact. For an Indian child, relative includes members of the extended family as defined by the law or custom of the Indian child's tribe or, in the absence of law or custom, nieces, nephews or first or second cousins, as provided in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1903.

18. *Relative Custodian*

"Relative custodian" means a person to whom permanent legal and physical custody of a child has been transferred under section 260C.515, subdivision 4 [[Child Protection, Disposition Order of Transfer of Legal Custody to a Relative], or for a child under jurisdiction of a tribal court, a judicial determination under a similar provision in tribal code, which means that a relative will assume the duty and authority to provide care, control, and protection of a child who is residing in foster care, and to make decisions regarding the child's education, health care, and general welfare until adulthood.

19. *Special Assessment*

"Special assessment" means an assessment performed under section 256N.24 [Assessments] that determines the benefits that an eligible child may receive under section 256N.26 [Benefits and Payments] at the time when a special assessment is required. A special assessment is used when a child's status within Northstar Care is shifted from a pre-Northstar Care program into Northstar Care for Children and when the commissioner determines that a special assessment is appropriate instead of assigning the transition child to a level under section 256N.28 [Administration and Appeals].

20. *Supplemental Difficulty of Care Rate*

"Supplemental difficulty of care rate" means the supplemental payment under section 256N.26 [Benefits and Payments], if any, as determined by the financially responsible agency or the state, based upon an assessment under section 256N.24 [Assessments]. The rate must support activities consistent with the care a parent provides a child with special needs and not the equivalent of a purchased service. The rate must consider the capacity and intensity of the activities associated with parenting duties provided in the home to nurture the child, preserve the child's connections, and support the child's functioning in the home and community.

C. Northstar Care - General Provisions

(Section 7)

1. *Who is Covered*

The Act includes cases where children receive:

- a. Foster Care Assistance. *(See subsequent provisions for detail)*
- b. Guardianship Assistance (formerly Relative Care Assistance; see subsequent provisions for detail); or
- c. Adoption assistance. *(See subsequent provisions for detail)*

2. *New Methodology for Assessments*
Provides new methodology for assessments that must take place before payments are made.
3. *Payments*
Payments must be pursuant to a negotiated, binding agreement.
4. *Program Costs*
Program costs will be shared between the state, county, local and certain tribal entities.
5. *Program Administration*
Program will be administered by DHS and the responsible county, tribe or other entity. Notifications and appeals will be conducted pursuant to the provisions contained within Chapter 256N.

D. Northstar Care - Foster Care Eligibility

(Section 8)

A child is eligible (on or after January 1, 2015) if all of the following criteria are met:

- a. The child is placed away from the parent or legal guardian.
 - (1) The legally responsible agency has placement authority and care responsibility. This includes children ages 18-21 who remain eligible for foster care. *(See Minn. Stat. § 260C.451)*.
- b. The legally responsible agency must have legal authority to place the child with a court order or voluntary placement consistent with:
 - (1) Delinquency dispositions; *(See Minn. Stat. § 260B.198)*
 - (2) Child protection proceedings; *(See Minn. Stat. § 260C.001)*
 - (3) Children in voluntary foster care for treatment *(see Minn. Stat. § 260C.01)*; or
 - (4) Children ages 18-21 with continued foster care eligibility *(see Minn. Stat. § 260C.451)*; AND
- c. The child must be placed in:
 - (1) Emergency relative placement;
 - (2) A licensed foster family setting, licensed foster residence setting; , or treatment foster care setting licensed under Minnesota Rules, parts 2960.3000-2960.3340;
 - (3) A family foster home licensed or approved by a trail agency; or
 - (4) For children between the ages of 18 and 21, an unlicensed supervised independent living setting approved by the agency responsible for the youth's care.

- e. A minor parent with their child in the same home is eligible for foster care payments, but only on the basis of the parent in placement, unless the agency also has placement authority over the minor’s child.
- f. Children ages 18-21 with continued foster care eligibility (*see Minn. Stat. § 260C.451*) is eligible is eligible for the same level of benefits (including difficulty of care payments) as children under age 18.
- g. The basic and difficulty of care payments are intended to represent costs similar in nature to parents.
 - (1) It does not cover costs performed by the foster parent, facility, or administrative costs or fees;
 - (2) The agency may pay an additional fee for such services, but they must be distinguished from the daily fee amount reach through an assessment.
- h. Transition to Northstar Care – foster care cases:
 - (1) All children in foster care as of December 31, 2014 will be in the Pre-Northstar Foster Care Program. (*See Section 3, amending existing Minn. Stat. § 256.82, and Section 20, which creates the Pre-Northstar Foster Care Program in Minn. Stat. § 260C.4411*)
 - (2) Children will transition into the Northstar Program upon the first event on or after January 1, 2015:
 - The child moves to a different foster home or unlicensed supervised independent living setting;
 - Has their legal and physical custody transferred to a relative and becomes eligible for guardianship assistance (if applicable);
 - Is adopted and becomes eligible for adoption assistance (if applicable); or
 - Re-enters foster care after a reunification or trial home visit.
 - (3) Upon eligibility, the child is assessed under the Northstar Care provisions (*See Section 11*) and its additional transition provisions. (*See Section 15*)

E. Northstar Care - Guardianship Assistance Eligibility
(*Section 9*)

1. *General Eligibility for a Child*

On or after January 1, 2015, a child is eligible if:

- a. There has been a judicial determination that a transfer of legal and physical custody is in the child’s best interests. (*See Minn. Stat. § 260C.515, subd. 4*);
 - (1) Or, in tribal court, a transfer under similar provisions that a relative will assume the duty and authority to provide the care, control, and protection of the child, make major decisions for the child until adulthood, and “that this is in the child’s best interest is considered equivalent”;

- b. The child has either resided with the prospective relative custodian for six months, or the court has exempted that requirement based on:
 - (1) Expedited permanency is in the child’s best interests;
 - (2) Expedited permanency can’t be completed without guardianship assistance; and
 - (3) This relative is uniquely qualified to meet the child’s needs.
- c. The child meets the factors for the agency’s determinations regarding permanency (see details in this section);
- d. The child meets the citizenship and immigration requirements (see details in this section);
- e. The child is age 14 (or will become 14 prior to the transfer of custody) and has been consulted regarding the transfer of custody;
- f. There is a written, binding agreement between the caregiver, financially responsible agency and DHS prior to the transfer of custody;
- g. The relative custodian(s) meet all background study requirements (see details in this section); and
- h. The child meets any other criteria set forth in Section 473(d) of the Social Security Act. *(See 42 USC § 673 – this is Title IV-E guardianship assistance)*
 - (1) For the child’s sibling, if the child resides in the same household based upon the agreement of the caregiver, agency and DHS, and meets the requirements of Section 473(d), the sibling is also eligible for Title IV-E guardianship assistance. If the sibling meets all other criteria except the requirements of Section 473(d), the sibling’s payments must be from guardianship assistance not paid by IV-E funds.

2. *Agency Determinations Regarding Permanency*

- a. Prior to the transfer of custody, the agency must make the following determinations before a child is eligible for guardianship assistance:
 - (1) Reunification and adoption are not appropriate options for the child; and
 - (2) The child demonstrates a strong attachment to the prospective relative custodian and the relative has a strong commitment to permanently caring for the child.
- b. Supporting documentation must be included in the case file and available for review by DHS or the financially responsible agency upon request.

3. *Citizenship/Eligibility*

The child must be a U.S. citizen and eligible for federal benefits. *(See the Personal Responsibility Work Opportunity and Reconciliation Act, Public Law 104-193, as amended)*

4. *Background Study/Disqualification*

- a. A background study must be conducted under Minn. Stat. § 245C.33 on the proposed custodian and any adult residing in the same home.
- b. A prior foster care licensure background study (*See Minn. Stat. § 245C.04*) may also be used to fulfill this requirement, provided it is current at the time of application for guardianship assistance.
- c. A custodian is disqualified from receiving guardianship assistance if the background study reveals a **felony-level conviction** (for the custodian or other adult in the household):
 - (1) At any time for:
 - child abuse or neglect;
 - spousal abuse;
 - a crime against a child, including child pornography; or
 - a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery;
 - (2) Within the past five years for:
 - physical assault;
 - battery; or
 - a drug-related offense.

5. *Responsibilities for Determining Guardianship Assistance Eligibility*

- a. DHS Determines eligibility for:
 - (1) A child who is under legal responsibility of a Minnesota county social services agency, who otherwise would remain in foster care;
 - (2) A Minnesota child under tribal court jurisdiction who would otherwise remain in foster care; and
 - (3) An individual assuming permanent legal and physical custody of a child placed in Minnesota by another state or tribe.
 - (4) The financially responsible agency must prepare an eligibility determination for DHS review and approval. The determination must:
 - Be on forms prescribed and approved by DHS;
 - Be completed in accordance with DHS requirements and procedures; and
 - Include supporting documentation for the determination.
- b. Both DHS and the agency must:
 - (1) Make every effort to establish IV-E guardianship assistance eligibility;

- (2) If a child is eligible for guardianship assistance, both DHS and the agency must negotiate a guardianship assistance agreement. (*See detail below and also Section 12*)

6. *Guardianship Assistance Agreements*

a. **When DHS is Prohibited from Entering Into Agreements**

DHS is prohibited from entering into agreements with:

- (1) The child's biological parent;
- (2) A person assuming permanent legal and physical custody (or the tribal court equivalent) without welfare system involvement;
- (3) A person assuming permanent legal and physical custody of a child placed by another state or a tribe outside of Minnesota.

*Note: Children who receive guardianship assistance under the Northstar program are **expressly prohibited** from being eligible for MFIP child-only grants under Minnesota Statutes, Chapter 256J.*

b. **Termination of Agreement**

An agreement must be terminated when:

- (1) The child has attained the age of 18, or up to age 21 when the child meets a condition for extension. (*See detail below*)
- (2) The child is under 18, but the commissioner determines the relative custodian is no longer legally responsible for support of the child;
- (3) DHS determines the relative custodian is no longer providing financial support to the child up to age 21;
- (4) The child dies; or
- (5) The relative custodian requests in writing termination of the guardianship assistance agreement.

c. **When Relative Custodian No Longer Legally Responsible**

A relative custodian is considered no longer legally responsible for support of the child when:

- (1) Permanent legal and physical custody or guardianship of the child is transferred to another individual;
- (2) The relative custodian dies;
 - If that occurs, the agreement ends, but the assistance may continue if the provisions regarding court-appointed guardians in these circumstances apply. (*See below*)

- (3) The child enlists in the military;
- (4) The child gets married; or
- (5) The child is legally determined to be an emancipated minor.

d. **Court Appointed Guardians**

Guardians are appointed by the court when the relative custodian dies, if DHS consents, the court can appoint a guardian, and guardianship assistance can continue.

- This does not apply if the child’s custody is still with the county, tribe or child-placing agency;
- The appointment of a court-appointed guardian may only be for six months; if a permanent guardian is not found, the guardianship assistance terminates and cannot be resumed;
- Court-appointed guardianships are not eligible for assistance from Title IV-E funds.

e. **Agreement Extensions for Children Between ages 18-21**

Extensions for children who were younger than 16 when the guardianship assistance agreement was executed and are now between ages 18 and 21, who now;

- Remain dependent on the relative custodian for care and financial support; and
- Meet at least one of the following conditions:
 - is completing a secondary education program or a program leading to an equivalent credential;
 - is enrolled in an institution which provides postsecondary or vocational education;
 - is participating in a program or activity designed to promote or remove barriers to employment;
 - is employed for at least 80 hours per month; or
 - is incapable of doing any of the activities described in items (i) to (iv) due to a medical condition where incapability is supported by professional documentation according to the requirements and procedures prescribed by the commissioner.

f. **Extensions for Certain Children**

Extensions for children who were not underage 16 when the agreement was executed and are now between ages 18 and 21, who now:

- (1) Is dependent on the relative custodian for care and financial support; and
- (2) DHS determines that the child has a physical or mental disability that impairs independent living and warrants continued financial assistance.

7. *Beginning Guardianship Assistance under Northstar Care (New Cases)*

- a. Effective November 27, 2014, if a child meets the criteria for guardianship assistance under Northstar Care, an agreement may be negotiated, with an effective date of either January 1, 2015 or the date of the order transferring legal and physical custody, whichever is later.
- b. Except for a child assessed at a Level A under Northstar Care, the payment rate schedules are based upon the Northstar Care rates for the child's age as of the date the agreement was signed by the proposed relative custodian.

8. *Guardianship Assistance Transition to Northstar Care (existing cases)*

- a. Guardianship Assistance agreements executed under existing law (*See Minn. Stat. § 257.85, but re-named to Pre-Northstar Care Adoption Assistance*) prior to November 26, 2014 may be renegotiated by DHS under the provisions of Northstar Care.
- b. DHS can waive Northstar Care requirements to facilitate these transitions.
- c. Renegotiations must be in accordance with the following priorities:
 - (1) financial and budgetary constraints;
 - (2) complying with federal regulations;
 - (3) converting pre-Northstar Care for Children relative custody assistance under section 257.85 to the guardianship assistance component of Northstar Care for Children;
 - (4) improving permanency for a child or children;
 - (5) maintaining permanency for a child or children;
 - (6) accessing additional federal funds; and
 - (7) administrative simplification.
- d. Additional process and requirements for transition for guardianship assistance are the same for adoption assistance and family foster care. (*See detailed discussion of Section 15*)

F. Northstar Care - Adoption Assistance
(Section 10)

1. *General Eligibility*

A child must meet all of the following:

a. Have special needs. (*See requirements below*)

b. Meet the following citizenship/immigration requirements:

(1) For IV-E adoption assistance, the child must be either a U.S. citizen or meet the requirements for federal public benefits under the Personal Responsibility Work Opportunity and Reconciliation Act, Public Law 104-193, as amended.

(2) For adoption assistance not paid with IV-E funds, the child must be a U.S. citizen or qualified alien under the Personal Responsibility Work Opportunity and Reconciliation Act, Public Law 104-193, as amended.

c. Meet either:

(1) Criteria for the federal adoption assistance program. (*See 42 U.S.C. § 673*); or

(2) Have had (1) foster care payments paid on the child's behalf while in out-of-home placement through the county or tribe, and (2) be either (i) under the guardianship of the commissioner or (ii) under the jurisdiction of a Minnesota tribe and adoption, according to tribal law, is in the child's documented permanency plan;

(3) Have a written, binding agreement (*see Section 12 for requirements, etc., regarding agreements*) among the adoptive parent, the financially responsible agency, and DHS established prior to the adoption finalization. If there is no financially responsible agency, the agency must be designated by DHS; and

d. The adoptive parent(s) must meet the following background study requirements:

(1) A study completed under existing law. (*See Minn. Stat. § 259.41*); and

(2) have no disqualifications based upon a **felony-level conviction** (for the custodian or other adult in the household):

- At any time for:
 - child abuse or neglect;
 - spousal abuse;
 - a crime against a child, including child pornography; or
 - a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery; or
- Within the past five years for:
 - physical assault;
 - battery; or
 - a drug-related offense
 - A disqualification also serves as a basis to not approve adoption assistance payments

e. A child who meets all eligibility criteria except those specific to title IV-E adoption assistance must receive adoption assistance paid through funds other than title IV-E.

- (1) Special Needs Determinations – A child will be determined to be special needs (a requirement for adoption assistance eligibility) if the child meets all of the following criteria:
 - a) There must be a determination that the child must not or should not be returned to the home of the child's parents as evidenced by:
 - (1) a court-ordered termination of parental rights;
 - (2) a petition to terminate parental rights;
 - (3) consent of parent to adoption accepted by the court under Minnesota Statutes, Chapter 260C;
 - (4) in circumstances when tribal law permits the child to be adopted without a termination of parental rights, a judicial determination by a tribal court indicating the valid reason why the child cannot or should not return home;
 - (5) a voluntary relinquishment under Minn. Stat. § 259.25 or Minn. Stat. § 259.47 or, if relinquishment occurred in another state, the applicable laws in that state; or
 - (6) the death of the legal parent or parents if the child has two legal parents;
 - b) A specific factor or condition exists which reasonably concludes that the child cannot be placed with adoptive parents without providing adoption assistance. This can be shown by:
 - (1) Social Security Administration determination that the child is eligible for medial or disability Supplemental Social Security Income (SSI) benefits;
 - (2) A documented physical, mental, emotional, or behavioral disability not covered under SSI eligibility criteria;
 - (3) A member of a sibling group being adopted at the same time by the same parent;
 - (4) An adoptive placement in the home of a parent who previously adopted a sibling for whom they receive adoption assistance; or
 - (5) Documentation that the child is an at-risk child; and
 - c) A reasonable but unsuccessful effort must have been made to place the child with adoptive parents without providing adoption assistance as evidenced by:

- (1) A documented search for an appropriate adoptive placement; or
 - (2) DHS determines that a search is not in the best interests of the child.
- d) Additionally meets all of the following additional requirements for documented searches In Special Needs Cases:
- The requirement for a documented search for an appropriate adoptive placement without adoption assistance, including the registration of the child with the state adoption exchange and other recruitment methods (see below), must be waived if:
 - the child is being adopted by a relative and it is determined by the child-placing agency that adoption by the relative is in the best interests of the child;
 - the child is being adopted by a foster parent with whom the child has developed significant emotional ties while in the foster parent's care as a foster child and it is determined by the child-placing agency that adoption by the foster parent is in the best interests of the child; or
 - the child is being adopted by a parent that previously adopted a sibling of the child, and it is determined by the child-placing agency that adoption by this parent is in the best interests of the child.
- f. For an Indian child covered by the Indian Child Welfare Act, a waiver must not be granted unless the child-placing agency has complied with the placement preferences required by the Indian Child Welfare Act. (See 25 U.S.C. § 1915(a))**
- g. To meet the requirement of a documented search for an appropriate adoptive placement for a child with a relative without adoption assistance, the child-placing agency minimally must:**
- (1) conduct a relative search as required by Minn. Stat. § 260C.221 and give consideration to placement with a relative, as required by Minn. Stat. § 260C.212, subdivision 2;
 - (2) comply with the placement preferences required by the Indian Child Welfare Act when the Indian Child Welfare Act applies. (See 25 U.S.C. § 1915(a));
 - (3) locate prospective adoptive families by registering the child on the state adoption exchange, (See Minn. Stat. § 259.75); and
 - (4) if registration with the state adoption exchange does not result in the identification of an appropriate adoptive placement, the agency must employ additional recruitment methods prescribed by DHS.
- h. In addition, once the legally responsible agency has determined that placement with an identified parent is in the child's best interests and made full written disclosure about the child's social and medical history, the agency must ask the prospective adoptive parent if the prospective adoptive parent is willing to adopt the child without receiving adoption assistance under this section.**

- (1) If the identified parent is either unwilling or unable to adopt the child without adoption assistance, the legally responsible agency must provide documentation as prescribed by the commissioner to fulfill the requirement to make a reasonable effort to place the child without adoption assistance.
- (2) If the identified parent is willing to adopt the child without adoption assistance, the parent must provide a written statement to this effect to the legally responsible agency. The statement must be also maintained in the permanent adoption record of the legally responsible agency.
- (3) For children under guardianship of the commissioner, the legally responsible agency shall submit a copy of this statement to the commissioner to be maintained in the permanent adoption record.

2. *Adoption Assistance Agreements*

- (1) DHS determines eligibility for agreements in the following cases:
 - A child under the guardianship of the commissioner who would otherwise remain in foster care;
 - A child who is not under the guardianship of the commissioner who meets title IV-E eligibility for adoption assistance (*see 42 U.S.C. § 673*) and no state agency has legal responsibility for placement and care of the child;
 - A Minnesota child under tribal jurisdiction who would otherwise remain in foster care; and
 - An Indian child being placed in Minnesota who meets title IV-E eligibility for adoption assistance. (*See 42 U.S.C. §673*)
 - The agency or entity assuming responsibility for the child is responsible for the nonfederal share of the adoption assistance payment.
- (2) DHS is prohibited from entering into agreements with the following:
 - A child's biological parent or stepparent;
 - A child's relative under Minn. Stat. § 260C.007, subd. 27, with whom the child resided immediately prior to child welfare involvement unless:
 - the child was in the custody of a Minnesota county or tribal agency pursuant to an order under chapter 260C or equivalent provisions of tribal code and the agency had placement and care responsibility for permanency planning for the child; and
 - the child is under guardianship of the commissioner of human services (*see Minn. Stat. §260C.325, subs. 1 or 3*) or is a ward of a Minnesota tribal court after termination of parental rights, suspension of parental rights, or a finding by the tribal court that the child cannot safely return to the care of the parent;
 - An individual adopting a child who is the subject of a direct adoptive placement (*see Minn. Stat. § 259.47*) or the equivalent in tribal code;
 - A child's legal custodian or guardian who is now adopting the child; or
 - An individual who is adopting a child who is not a citizen or resident of the United States and was either adopted in another country or brought to the United States for the purposes of adoption.

(3) The financially responsible agency must:

- Prepare an eligibility determination for DHS review and approval. The determination must:
 - Be on forms prescribed and approved by DHS;
 - Be completed in accordance with DHS requirements and procedures; and
 - Include supporting and verified documentation establishing the child as a special needs child.
 - Documentation from a qualified expert of a disability is limited to evidence deemed appropriate by DHS. Examples of appropriate documentation include, but are not limited to, medical records, psychological assessments, educational or early childhood evaluations, court findings, and social and medical history.
 - Documentation that the child is at risk of developing physical, mental, emotional, or behavioral disabilities must be submitted according to policies and procedures prescribed by DHS.
- If there is no financially responsible agency, another agency must be designated by DHS.

(4) Both DHS and the agency must:

- Make every effort to establish IV-E adoption assistance eligibility;
- If a child is eligible for adoption assistance, both DHS and the agency must negotiate an adoption assistance agreement. (*See Section 12*)

3. *Termination of Adoption Assistance Agreements*

a. Adoption assistance agreements must terminate when:

(1) The child reaches age 18, or up to age 21 when the child meets a condition for extension; (*See below*)

(2) The child has not attained the age of 18, but DHS determines the adoptive parent is no longer legally responsible for support of the child;

(3) DHS determines the adoptive parent is no longer providing financial support to the child up to age 21;

(4) The child dies; or

(5) The adoptive parent requests in writing the termination of the adoption assistance agreement.

b. An adoptive parent is considered no longer legally responsible for support of the child in any of the following circumstances:

(1) Parental rights to the child are legally terminated or a court accepted the parent's consent to adoption under Minnesota Statutes, chapter 260C;

(2) Permanent legal and physical custody or guardianship of the child is transferred to another individual;

(3) Death of the adoptive parent;

Note: If there is no adoptive parent, generally the adoption assistance agreement ends, but the adoption assistance may continue if there is a subsequent adoption. (See below)

(4) The child enlists in the military;

(5) The child gets married; or

(6) The child is legally determined an emancipated minor.

c. Subsequent adoption when the adoptive parent(s) die.

(1) The child remains eligible for IV-E adoption assistance if all of the following criteria are met:

- The child is determined to be a child with special needs; and
- The subsequent adoptive parent resides in Minnesota.

(2) If IV-E adoption assistance was in place before the adoptive parent died (or the adoption dissolved), and the new adoptive parent resides outside of Minnesota, DHS has no responsibility for the case unless a Minnesota agency has care and placement responsibility at the time of subsequent adoption.

- If no Minnesota agency is involved at the point of the subsequent adoption, the case will be handled in the state of the newly-adoptive parent's residence.

d. Court-appointed guardian/custodian upon the adoptive parent's death.

(1) Unless custody of the child is with a state agency, if the child no longer has an adoptive parent, DHS may approve continued adoption assistance to a court-appointed guardian or custodian.

(2) The appointment is up to six months and upon terms set by DHS.

(3) Adoption assistance terminates if the child is not adopted at the end of the six month period, or the court hasn't appointed another permanent guardian. (*See Minn. Stat. § 260C.325 (governing (Guardianship after termination of parental rights), Minn. Stat. § 525.5-313, or similar law of another jurisdiction).*)

e. Adoption assistance paid to court-appointed guardians/custodians must not be paid from Title IV-E funds.

4. *Extension of Adoption Assistance for Children ages 18-21*

a. If Child Was Age 16 Prior to Adoption Assistance Agreement

If a child was age 16 prior to the adoption assistance agreement, the assistance may be extended to age 21 if the child is: (1) dependent on the adoptive parent for care and financial support; and (2) meets one of the following:

- (1) Is completing a secondary education program or a program leading to an equivalent credential;
- (2) Is enrolled in an institution that provides postsecondary or vocational education;
- (3) Is participating in a program or activity designed to promote or remove barriers to employment;
- (4) Is employed for at least 80 hours per month; or
- (5) Is incapable of doing any of the activities described in items the above due to a medical condition where incapability is supported by documentation from an expert according to the requirements and procedures prescribed by the commissioner.

b. If Child Was Under Age 16 Prior to Adoption Assistance Agreement

If a child was under age 16 prior to the adoption assistance agreement, the assistance may be extended to age 21 if the child is dependent on the adoptive parent for care and financial support and either:

- (1) Is enrolled in a secondary education program or a program leading to the equivalent; or
- (2) Possesses a physical or mental disability that impairs the capacity for independent living and DHS determines warrants continuation of financial assistance.

c. Requirements and Timing for Extension of Adoption Assistance

- (1) Request for extension must be made to DHS within 60 days of current agreement's expiration.
- (2) Must be in writing and on forms prescribed by DHS (including supporting documentation needed).
- (3) The extended agreement must be executed by the parent and DHS at least ten business days prior to the expiration of the current adoption assistance agreement.
- (4) If requested by an agency for a child that will turn 18 within sixty days of the first submission for adoption assistance, an application for extension (with all required documentation) must be submitted with the adoption assistance application.

5. *Adoption Assistance Transitions to Northstar Care*

a. **New Cases between November 27, 2014 and January 1, 2015**

- Agreements will be negotiated under the terms of Northstar Care agreements. *(See Section 12)*
- Must be effective the later of January 1, 2015 or the date of the court order finalizing the adoption;
- Unless the child is determined to be an “at risk child” assessed as Level A, the maximum rate schedule will be pursuant to the basic payment under Northstar Care *(see Section 13)* based on the age of the child on the date the agreement is signed by the adoptive parent;
 - If a child is assessed at Level A as an at-risk child, the payment rate is set at the special rate for at-risk children. *(See Section 12)*

b. **Existing cases**

With respect to agreements negotiated under Chapter 259A of existing law prior to November 27, 2014:

1. DHS can offer an adoption assistance agreement under the Northstar Care provisions on or before November 26, 2014;
2. To facilitate this process, DHS can waive any Northstar Care eligibility requirement;
3. Maximum rates must be in accordance with Pre-Northstar Care rates. *(See Section 15, subd. 7)*

G. Assessments (Including Special Assessments and Reassessments)

(Section 11)

Except as specified below, each child eligible for Northstar Care foster care, guardianship assistance or adoption assistance must be assessed to determine the amount and level of benefits for that child.

a. *Assessment Tool*

DHS will establish the assessment tool to determine the basic and supplemental difficulty of care payment, and the process and documentation required for assessment and re-assessments.

- a) DHS must develop an assessment tool that takes the child’s strengths and needs and the extra parenting provided by the caregiver into consideration.
- b) DHS must also consider the caregiver’s need for child care, with greater consideration for younger children.
 - If child care is needed through Northstar, the payment levels will be adjusted. *(See discussion below)*
 - If a caregiver receives child care assistance under Chapter 119B, the caregiver is not eligible for child care payments under Northstar.

c) If an assessment is required, a child must be assessed at the basic level, level B, or one of ten supplemental difficulty of care levels, levels C to L. (*See chart in Section 13*)]

d) An assessment must not be completed for:

- (1) A child eligible for Northstar guardianship assistance or adoption assistance who is determined to be an at-risk child.
 - A child under this clause must be assigned level A under Minn. Stat. § 256N.26, subdivision 1; and
- (2) A child transitioning into Northstar Care for Children from the Pre-Northstar program (*see Section 15, subd. 7*), unless DHS determines an assessment is appropriate.

e) Foster care initial assessments:

- (1) For a child entering Northstar foster care, the initial assessment must be completed by the financially responsible agency (in consultation with the legally responsible agency, if different) within 30 days of placement. The assessment must be completed in consultation with the caregiver, including face-to-face contact with the caregiver.
- (2) If the foster parent is unable or unwilling to participate in the assessment, the child must be assessed at the basic level, Level B. (*See Section 13*). The foster parent must be given notice. (*See notice discussion below*)
- (3) In cases where the emergency foster care rate is used in an initial placement (*see Section 13*), the agency has up to 30 days to complete the initial assessment;

f) Assessment Tool – Extraordinary Levels

- (1) As part of developing the assessment tool, requires DHS to also create “extraordinary levels” which are five levels that can be added to a child’s difficulty of care levels available under Northstar. (*See Section 13*)
- (2) The extraordinary levels will be available when all of the following apply:
 - The child has extraordinary needs as determined by the assessment tool developed by DHS, and the child meets other requirements established by DHS, such as a minimum score on the assessment tool;
 - The child's extraordinary needs require extraordinary care and intense supervision provided by the child's caregiver as part of the parental duties as defined in the supplemental difficulty of care rate. (*See Section 6, subd. 21*).
 - This extraordinary care is required so that the child can be safely cared for in the home and community, and prevents residential placement;
 - The child is physically living in a foster family setting (*see Minnesota Rules, part 2960.3010, subp. 23*), or physically living in the home with the adoptive parent or relative custodian; and

- The child is receiving the services for which the child is eligible through medical assistance programs or other programs that provide necessary services for children with disabilities or other medical and behavioral conditions to live with the child's family, but the agency with caregiver's input has identified a specific support gap that cannot be met through home and community support waivers or other programs that are designed to provide support for children with special needs.
- (3) What the agency must document as part of the assessment that suggests an extraordinary level of care (must meet all):
- The assessment tool that determined that the child's needs or disabilities require extraordinary care and intense supervision;
 - A summary of the extraordinary care and intense supervision that is provided by the caregiver as part of the parental duties as defined in the supplemental difficulty of care rate. (*See Section 6, subd. 21*);
 - Confirmation that the child is currently physically residing in the foster family setting or in the home with the adoptive parent or relative custodian;
 - The efforts of the agency, caregiver, parents, and others to request support services in the home and community that would ease the degree of parental duties provided by the caregiver for the care and supervision of the child.
 - This includes documentation of:
 - (1) services provided for the child's needs or disabilities; and
 - (2) the services that were denied or not available from the local social service agency, community agency, the local school district, local public health department, the parent or child's medical insurance provider;
 - The specific support gap identified that places the child's safety and well-being at risk in the home or community and is necessary to prevent residential placement; and
 - The extraordinary care and intense supervision provided by the foster, adoptive, or guardianship caregivers to maintain the child safely in the child's home and prevent residential placement
 - Must also show that the care and supervision cannot be supported by medical assistance or other programs that provide services, necessary care for children with disabilities, or other medical or behavioral conditions in the home or community.
- (4) The agency is seeking a determination of extraordinary care; they must forward the underlying assessment tool with the appropriate documentation for the assessment and determination of extraordinary care to DHS.
- If approved, the payment level is retroactive to the date the assessment was forwarded to DHS.

g) Assessment Tool – Child Care

- (1) When the caregiver's need for child care must be included as part of the assessment:
- (2) The child is under age 13;
- (3) All available adult caregivers are employed or attending educational or vocational training programs; and
- (4) The caregiver does not receive child care assistance for the child under Chapter 119B.
- (5) For children younger than seven years of age, the level determined by the non-child care portions of the assessment must be adjusted based on the average number of hours child care is needed each week due to employment or attending a training or educational program as follows:
 - No adjustment if fewer than ten hours or if the caregiver is participating in the child care assistance program under Chapter 119B;
 - Increase one level if ten to 19 hours or if needed during school summer vacation or equivalent only;
 - Increase two levels if 20 to 29 hours;
 - Increase three levels if 30 to 39 hours; and
 - Increase four levels for 40 or more hours, increase four levels.
- (6) For children ages 7-12, the level determined by the non-child care portions of the assessment must be adjusted based on the average number of hours child care is needed each week due to employment or attending a training or educational program as follows:
 - No adjustment if fewer than 20 hours, needed during school summer vacation or equivalent only, or if the caregiver is participating in the child care assistance program under Chapter 119B;
 - Increase one level if 20 to 39 hours; and
 - Increase two levels if 40 or more hours.
 - In addition, when the child attains the age of seven, the child care allowance must be reduced by reducing the level to that available for children ages 7-12 who need child care.
 - For children in foster care, benefits (*see Section 15 – includes base payments, difficulty of care, etc.*) must be automatically reduced when the child turns seven.
 - For children who receive guardianship assistance or adoption assistance, agreements must include similar provisions to ensure that the benefit provided to these children does not exceed the benefit provided to children in foster care.
- (7) When the child attains the age of 13, the child care allowance must be eliminated by reducing the level to that available prior to any consideration of the caregiver's need for child care.
 - For children in foster care, benefits (*see Section 15 – includes base payments, difficulty of care, etc.*) must be automatically reduced when the child attains the age of 13.

- For children who receive guardianship assistance or adoption assistance, agreements must include similar provisions to ensure that the benefit provided to these children does not exceed the benefit provided to children in foster care.
- (8) The child care allowance is not available to caregivers who receive child care assistance under Chapter 119B.
- The caregiver must notify DHS if they subsequently receive child care assistance, and the level must be reduced to the level assessed prior to consideration for the need for child care.
- (9) DHS must design the overall assessment tool so that the levels applicable to the non-child care portions of the assessment at a given age accommodate the requirements and adjustments for child care payments.

2. *Special Assessments*

a. Required for guardianship assistance agreement when:

- (1) The child was not placed in foster care with the prospective relative custodian prior to the negotiation of the guardianship assistance agreement; or
- (2) Any requirement for reassessment is met. (*See requirements below*)

b. Required for adoption assistance agreement when:

- (1) The child was not placed in foster care with the prospective adoptive parent or parents prior to the negotiation of the adoption assistance agreement; or
- (2) Any requirement for reassessment is met. (*See requirements below*)

c. The special assessment must be completed prior to the establishment of a guardianship assistance or adoption assistance agreement on behalf of the child.

d. A special assessment is also required when:

- (1) A child transitions from a pre-Northstar Foster Care for Children program into Northstar Care for Children; and
- (2) DHS determines that a special assessment is appropriate instead of assigning the transition child to a level for children transitioning from Pre-Northstar Foster Care Program to Northstar programs. (*See Section 15, subd. 6*)

e. Completion:

- (1) Must be completed by the financially responsible agency in consultation with the child's caregiver, but face-to-face contact is not required.
- (2) If a new special assessment is required prior to the effective date of the guardianship assistance agreement, it must be completed by the financially responsible agency (in consultation with the legally responsible agency if different).
 - If the prospective relative custodian is unable or unwilling to cooperate with the special assessment process, the child shall be assigned the basic level, level B. *(See Section 13, subd. 3)*
 - However, if the child is known to be an at-risk child, the child shall be assigned level A. *(See Section 13, subd. 1)*
- (3) If a special assessment is required prior to the effective date of the adoption assistance agreement, it must be completed by the financially responsible agency (in consultation with the legally responsible agency if different).
 - If there is no financially responsible agency, the special assessment must be completed by the agency designated by DHS.
 - If the prospective adoptive parent is unable or unwilling to cooperate with the special assessment process, the child must be assigned the basic level, level B. *(See Section 13, subd. 3)*
 - However, if the child is known to be an at-risk child, the child shall be assigned level A. *(See Section 13, subd. 1)*
- (4) Notice to the prospective relative custodians or prospective adoptive parents must be provided. *(See requirements below)*

3. Reassessments

- a. Reassessments for an eligible child must be completed within 30 days of any of the following events:
 - (1) For a child in continuous foster care:
 - When six months have elapsed since completion of the last assessment; or
 - A change of placement location;
 - (2) For a child in foster care, at the request of the financially responsible agency or legally responsible agency;
 - (3) At the request of DHS; or
 - (4) At the request of the caregiver. *(See below)*

b. Caregiver requests for Reassessment

(1) Must be made in writing to the financially responsible agency

- If there is no financially responsible agency, the agency designated by DHS;
- The written request must include the reason for the request and the name, address, and contact information of the caregivers.
- Guardianship Assistance/Adoption Assistance cases:
 - Reassessment may be requested if at least six months have elapsed since any previously requested review;
- Foster Care Assistance cases:
 - A foster parent may request reassessment in less than six months with written documentation that there have been significant changes in the child's needs that necessitate an earlier reassessment.
- At-risk child cases:
 - If the caregiver has satisfied DHS with written documentation from a qualified expert that the potential disability upon which eligibility for the agreement was based has manifested itself, consistent requirements for renegotiating agreements for at-risk children. (*See Section 12, subd. 3, paragraph (b)*)

(2) If the reassessment cannot be completed within 30 days of the caregiver's request, the agency responsible for reassessment must notify the caregiver of the reason for the delay and a reasonable estimate of when the reassessment can be completed.

c. Reassessments must be completed in consultation with the child's caregiver, but face-to-face contact with the caregiver is not required to complete the reassessment.

d. For foster children eligible for foster care benefits (*see Section 8*), reassessments must be completed by the financially responsible agency, in consultation with the legally responsible agency if different.

e. If reassessment is required after the effective date of the guardianship assistance agreement, the reassessment must be completed by the financially responsible agency.

(1) If a reassessment is required after the effective date of the adoption assistance agreement, it must be completed by the financially responsible agency or, if there is no financially responsible agency, the agency designated by DHS.

- If the child's caregiver is unable or unwilling to cooperate with the reassessment, the child must be assessed at level B. (*See Section 13, subd. 3*) However, if the child has an adoption assistance or guardianship assistance agreement in place and is known to be an at-risk child, in which case the child must be assessed at level A. (*See Section 13, subd. 1*).

4. Approval – all assessments

- An agency completing initial assessments, special assessments, or reassessments must designate one or more supervisors or other staff to examine and approve assessments completed by others in the agency using the assessment tool. The agency person approving an assessment must not be the case manager or staff member completing that assessment.
- In cases where a special assessment or reassessment at a caregiver's request for guardian assistance and adoption assistance is required, DHS shall review and approve the assessment as part of the eligibility determination process for guardianship assistance (*see Section 9*), or for adoption assistance (*see Section 10*).
 - The assessment determines the maximum for the negotiated agreement amount. (*See Section 12*)
- The new rate is effective the calendar month that the assessment is approved, or the effective date of the agreement, whichever is later.

5. Rates – after assessments

- The assessment tool established by DHS determines the monthly benefit level for children in foster care.
- The monthly payment for guardian assistance or adoption assistance may be negotiated up to the monthly benefit level under foster care for those children eligible for a benefit for medical assistance, basic rate or a difficult of care payment. (*See Section 13, subd. 1*)

6. Notices Required – Initial Assessments/Reassessments:

- Written notice must be given by the agency completing the initial assessment or reassessment.
- Initial assessment notices must be sent within 15 days of completion of the initial assessment and must minimally include the following:
 - Summary of the child's completed individual assessment used to determine the initial rating;

- (2) Statement of rating and benefit level;
 - (3) Statement of the circumstances under which the agency must reassess the child;
 - (4) Procedure to seek reassessment;
 - (5) Notice that the caregiver has the right to a fair hearing review of the assessment and how to request a fair hearing, consistent with Minn. Stat. § 256.045, subd. 3; and
 - (6) Name, telephone number, and e-mail, if available, of a contact person at the agency completing the assessment.
- c. Reassessment notices must be sent within 15 days after the completion of the reassessment and must minimally include the following:
- (1) Summary of the child's individual assessment used to determine the new rating;
 - (2) Any change in rating and its effective date;
 - (3) Procedure to seek reassessment;
 - (4) Notice that if a change in rating results in a reduction of benefits, the caregiver has the right to a fair hearing review of the assessment and how to request a fair hearing consistent with Minn. Stat. § 256.045, subd. 3;
 - (5) Notice that a caregiver who requests a fair hearing of the reassessed rating within ten days may continue at the current rate pending the hearing, but the agency may recover any overpayment; and
 - (6) Name, telephone number, and e-mail, if available, of a contact person at the agency completing the reassessment.
7. Notices Required – Special Assessments
- a. Notice is not required for special assessments since the notice is part of the guardianship assistance or adoption assistance negotiated agreement (*See* Section 12 for terms and requirements for agreements).

H. Agreements for Guardianship and Adoption Assistance (*Section 12*)

1. *Establishment of Agreement*

An agreement between the caregiver, financially responsible agency (or other agency designated by DHS if no such agency exists) and DHS must be established prior to adoption or a transfer of legal and physical custody for the caregiver to receive Guardianship Assistance or Adoption Assistance.

2. *Requirements for an Approved Agreement*

Requirements for an approved agreement:

- a. Must be on the forms approved by DHS;
- b. Must specify:
 - (1) The duration of the agreement;
 - (2) The nature and amount of any payment, services, and assistance to be provided under such agreement;
 - (3) The child's eligibility for Medicaid services;
 - (4) The terms of the payment, including any child care portion (*see Section 11, subd. 3 for child care portion determination*);
 - (5) Eligibility for reimbursement of nonrecurring expenses associated with adopting or obtaining permanent legal and physical custody of the child, to the extent that the total cost does not exceed \$2,000 per child;
 - (6) That the agreement must remain in effect regardless of the state of which the adoptive parents or relative custodians are residents at any given time;
 - (7) Provisions for modification of the terms of the agreement, including renegotiation of the agreement; and
 - (8) The effective date of the agreement;
- c. Must be signed by all parties to the agreement;
 - (1) Initially, the agreement is signed by the agency and the caregiver. The agency forwards the agreement with the eligibility determinations and any required supporting documentation to DHS for review, approval and signature.
 - (2) After signed by all parties, a copy must be given to each party; and
 - (3) DHS maintains the official record of the signed agreement.
 - The effective date of the guardianship assistance agreement must be the date of the court order that transfers permanent legal and physical custody to the relative.
 - The effective date of the adoption assistance agreement is the date of the finalized adoption decree.

3. *Conditions that Void the Agreement*

Termination or disruption of the preadoptive placement or the foster care placement prior to assignment of custody makes the agreement with that caregiver void.

4. *At-Risk Children: Establishment of Payment Amounts*

- a. Generally, a monthly payment will be made pursuant to the agreement (and unless otherwise specified, based upon the assessment tool and the payment levels in Section 13).

- (1) If the child is determined to be an at-risk child, the special at-risk monthly payment will be made (*see Section 13, subd. 7*) until the caregiver provides written documentation from a qualified expert that the potential disability upon which at-risk eligibility was based has manifested itself. DHS has discretion to determine what documentation is appropriate.

Note: Essentially, it appears that under these provisions, the agreement for at-risk children is the special at risk payment under Level A, which provides a monthly payment of \$1 (see Section 13, subds. 4 and 7). This arrangement appears to also essentially claim the future ability to receive additional funds, up to Northstar Care payments for the applicable adoption assistance, guardianship assistance or foster care payment for that child if and when a condition manifests itself.

- b. If the at-risk behavior manifests itself, the caregiver has the right to request reassessment and renegotiation.

5. *Guardianship Assistance Agreements*

- a. The initial amount of the monthly guardianship assistance payment must be equivalent to either:

- (1) The foster care rate in effect at the time that the agreement is signed less any offsets for income attributable to the child (*See Section 13, subd. 11*); or
- (2) A lesser negotiated amount if agreed to by the prospective relative custodian and specified in that agreement, unless:
 - The child is identified as at-risk; or
 - The guardianship assistance agreement is entered into when a child is under the age of six.

- b. An at-risk child must be assigned level A and receive the special at-risk monthly payment (*See Section 13, subds. 4 and 7*, and is a \$1 per month payment) unless and until the potential disability manifests itself, as documented by a qualified expert, and DHS modifies and approves the agreement accordingly; and

- c. The amount of the monthly payment for a guardianship assistance agreement for a child under the age of six must be the alternate rate set forth in Section 13, subd. 5.

6. *Adoption Assistance Agreements*

- a. For a child in foster care with the prospective adoptive parent immediately prior to adoptive placement, the initial amount of the monthly adoption assistance payment must be:
 - (1) Equivalent to the foster care rate in effect at the time that the agreement is signed less any offsets for income attributable to the child (*See* Section 13, subd. 11), or
 - (2) A lesser negotiated amount if agreed to by the prospective adoptive parents and specified in that agreement;
 - Unless the child is identified as at-risk or the adoption assistance agreement is entered into when a child is under the age of six;
- b. An at-risk child must be assigned level A and receive the special at-risk monthly payment (*see* Section 13, subds. 4 and 7, and is a \$1 per month payment) unless and until the potential disability manifests itself, as documented by a qualified expert, and DHS modifies and approves the agreement accordingly.
- c. The amount of the monthly payment for a guardianship assistance agreement for a child under the age of six must be the alternate rate set forth in Section 13, subd. 5;
- d. For a child who was in the guardianship assistance program immediately prior to adoptive placement, the initial amount of the adoption assistance payment must be:
 - (1) Equivalent to the guardianship assistance payment in effect at the time that the adoption assistance agreement is signed; or
 - (2) A lesser amount if agreed to by the prospective adoptive parent and specified in that agreement; and
- e. For a child who is not in foster care placement or the guardianship assistance program immediately prior to adoptive placement or negotiation of the adoption assistance agreement, the initial amount of the adoption assistance agreement must be determined using the assessment tool and process in this section and the corresponding payment amount outlined in section 13.

7. *Renegotiation of Agreements (Guardianship and Adoption Assistance)*

- a. May be requested by the custodian/parent when there is a change in the child's needs or the family's circumstances.
 - (1) When a relative custodian or adoptive parent requests renegotiation of the agreement, a reassessment of the child must be completed (*see* Section 11, subds. 9 and 10);
 - (2) If the reassessment indicates that the child's level has changed, the financially responsible agency (or other agency designated by DHS if there is no financially responsible agency) and the caregiver must renegotiate the agreement that includes payment consistent with the level determined through the reassessment;

- (3) The agreement must not be renegotiated unless DHS, the financially responsible agency, and the caregiver mutually agree to the changes;
- (4) The effective date of any renegotiated agreement must be determined by DHS;
- (5) However, for an at-risk child, a relative custodian or adoptive parent of an at-risk child may request renegotiation of the agreement for a payment above the special at-risk monthly payment (*see Section 13, subdivision 7 – the special at-risk monthly payment is \$1*), if:
 - The caregiver has written documentation from a qualified expert that the potential disability upon which eligibility for the agreement was based has manifested itself;
 - Documentation of the disability must be limited to evidence deemed appropriate by DHS;
 - Prior to renegotiating the agreement, a reassessment of the child must be conducted to negotiate an appropriate payment amount;
 - The agreement must not be renegotiated unless DHS, the financially responsible agency, and the caregiver mutually agree to the changes; and
 - The effective date of any renegotiated agreement must be determined by DHS.
- (6) Renegotiation must occur (*see Section 13, subd. 13*) if a child becomes, or is no longer eligible for:
 - Retirement Survivor’s Disability Insurance (RSDI);
 - Veteran’s Benefits;
 - Railroad Retirement Benefits; or
 - Black Lung Benefits.

I. Benefits and Payments

(Section 13)

1. Benefit Types

Generally, there are three benefit types under Northstar Care:

- a. Medical Assistance Payments;
 - (1) Eligibility is determined under Minn. Stat. § 256B.055.
- b. Basic Payment;
 - (1) The amount varies based upon the age of the child (*see Section 13, subd. 3*).
 - Except that at-risk children are only eligible for a \$1 payment per month. (*See detail below*)
- c. Supplemental Difficulty of Care Payment
 - (1) These payment amounts are determined by assessments.
 - (2) The payments are set in levels, from Level A – Level Q. (*See Section 13, subd. 4 for payment amounts for each level*)

2. *Alternative Payment Rates*

Alternative payment rates apply to:

- a. Children under age 6 entering Northstar Care guardianship assistance or adoption assistance.
 - (1) The child receives 50% of what s/he otherwise would have received through the basic rate and/or the difficulty of care rate.
- b. A child transitioning in from the Pre-Northstar Foster Care Program to Northstar Care must receive basic and difficulty of care supplemental payments according to those provisions.
 - (1) Except that children whose transition from the Pre-Northstar Foster Care Program to Northstar Care is by DHS' specific declaration. (*See Section 15, subd. 7 for transition; Section 13, subd. 5 for alternate payment rate provision*)
 - In these cases, the child receives 50% of what they otherwise would have received through the basic rate and/or the difficulty of care rate.
- c. Emergency Initial Foster Care Placements.
 - (1) Amount of payment
 - The appropriate basic rate (based on the child's age); plus
 - Supplemental Difficulty of Care Level D.
 - (2) Payment can only be up to 30 days.
 - If the child remains in placement, an assessment must be conducted, but payments stop in the interim.
 - (3) Requirements for payments:
 - Child placed by court order or immediate custody by a police officer. (*See Minn. Stat. § 260C.175, subds. 1 and 2, or equivalent tribal code provision*)
 - At least one of the following conditions must also be met to receive this payment:
 - The child's initial foster care placement must be in Minnesota;
 - The child's previous placement was more than two years ago; or
 - The child's previous placement was for fewer than 30 days and an assessment was not completed by an agency listed in Section 11 (Assessments);
 - (4) Assessment while in Emergency Placement
 - The financially responsible agency, in consultation with the legally responsible agency (if different) may replace the emergency foster care rate at any time by completing an initial assessment on which a revised difficulty of care supplemental monthly rate would be based.
 - A caregiver may request a reassessment in writing for an initial assessment to replace the emergency foster care rate.
 - This written request would initiate an initial assessment. (*See Section 11, subdivision 5*)

- If the revised difficulty of care supplemental level based on the initial assessment is higher than level D, then the revised higher rate shall apply retroactively to the beginning of the placement.
 - If the revised level is lower, the lower rate shall apply on the date the initial assessment was completed.
- d. At-Risk Children in Guardianship and Adoption Assistance cases – Payments (*Section 13, subd. 7*)
- (1) Receives a special at-risk monthly payment of \$1 per month basic;
 - (2) Unless and until the potential disability manifests itself and the agreement is renegotiated to include reimbursement;
 - (3) Such an at-risk child shall receive neither a supplemental difficulty of care monthly rate under subdivision 4 nor home and vehicle modifications under subdivision 10;
 - However, the child must be considered for medical assistance under subdivision 2.

3. *Daily Rates*

- a. DHS must establish prorated daily rates to the nearest cent for the monthly rates for (subs. 3-7):
 - (1) Basic rates;
 - (2) Supplemental Difficulty of Care Rates
 - (3) Rates for children under age 6;
 - (4) Rates for children transitioning into Northstar via DHS declaration;
 - (5) Emergency Foster Care rates; and
 - (6) At-Risk children special rates.
- b. Daily rates must be routinely used when a partial month is involved for foster care, guardianship assistance, or adoption assistance.
- c. A full month payment is permitted if:
 - (1) A foster child is temporarily absent from the foster home;
 - (2) The brief absence does not exceed 14 days; and
 - (3) The child's placement continues with the same caregiver.

4. *Rate Schedule Adjustments by DHS*

- a. Beginning April 1, 2016, and each subsequent April 1, DHS must review and revise the following rates:
 - (1) Basic rates;
 - (2) Supplemental Difficulty of Care Rates
 - (3) Rates for children under age 6;
 - (4) Rates for children transitioning into Northstar via DHS declaration;
 - (5) Emergency Foster Care rates; and
 - (6) At-Risk children special rates.
- b. The revisions must be based on USDA Estimates of the Cost of Raising a Child (USDA Publication 1411).

- (1) The revision shall be the average percentage by which costs increase for the age ranges represented in the USDA costs;
 - Except that no increase can be more than three percent;
- c. The monthly rates must be revised to the nearest dollar and the daily rates to the nearest cent.

5. *Reimbursement for Home and Vehicle Modifications*

- a. A child eligible for an adoption assistance agreement may have reimbursement of home and vehicle modifications necessary to accommodate the child's special needs upon which eligibility for adoption assistance was based and included as part of the negotiation of the adoption assistance agreement.

- (1) The modifications must be:

- Necessary for the specific special needs that established eligibility for adoption assistance; and
 - Included in negotiating the completed adoption assistance agreement.
- b. At-risk children are only eligible for home and vehicle modification reimbursements if the potential disability manifests itself and the agreement is renegotiated to include reimbursement.
 - c. Application for and reimbursement of modifications must be completed according to a process specified by DHS.
 - d. DHS must preapprove the type and cost of each modification.
 - e. The type of home and vehicle modifications must be limited to those specified by DHS.
 - f. Reimbursement for home modifications as outlined is limited to once every five years per child.
 - g. Reimbursement for vehicle modifications is limited to once every five years per family.

6. *Child Income/Income Attributable to the Child*

- a. Consideration of income and resources attributable to the child must be part of the negotiation process for agreements for foster care, guardianship or adoption assistance payments (*see Section 12, subd. 2*).
- b. Guardianship or Adoption Assistance Payments:
 - (1) Considered income and resources attributable to the child
 - (2) Cannot be garnished
 - Except as permitted by state law where the child resides.
- c. Foster Care
 - (1) Income and resources attributable to the child are determined under existing law. (*See Minn. Stat. §§ 252.27, 260C.331, and 260B.331*)

- d. Supplemental Security Income (SSI) is income attributable to the child.
- e. Retirement Survivor's Disability Insurance (RSDI) is income attributable to the child.
- f. Veteran's Benefits are income attributable to the child.
- g. Railroad Retirement Benefits are income attributable to the child.
- h. Black Lung Benefits are income attributable to the child.
- i. Child Support:
 - (1) Foster Care – is redirected to the financially responsible agency.
 - (2) Northstar Adoption or Guardianship Assistance – is not income attributable to the child and has no impact on payments.
- j. Minnesota Family Investment Plan (MFIP)
 - (1) A child placed and eligible for Northstar payments is excluded from the household assistance unit. (*See Minn. Stat. § 256J.24*)
- k. In some circumstances, the receipt of other income on behalf of the child may impact the amount of the monthly payment received by the relative custodian or adoptive parent on behalf of the child through Northstar Care for Children.

7. *Handling of Payments of Income Attributable to the Child*

- a. SSI Income:
 - (1) Foster Care:
 - The financially responsible agency may apply to be the payee for the child for the duration of the child's placement in foster care.
 - (2) Adoption or Transfer of Legal and Physical Custody and Receiving Adoption or Guardianship Assistance under Northstar:
 - A permanent caregiver may choose to receive payment from both SSI and Northstar simultaneously
 - The permanent caregiver is responsible to report the amount of the Northstar payment to the Social Security Administration and the SSI payment will be reduced as required by the Social Security Administration.
- b. RSDI, Veteran's Benefits, Railroad Retirement, and Black Lung Benefits:
 - (1) Foster Care:
 - The financially responsible agency may apply to be the payee for the child for the duration of the child's placement in foster care.

- (2) Adoption or Transfer of Legal and Physical Custody:
- If it is anticipated that a child will be eligible to receive benefits after finalization of the adoption or assignment of permanent legal and physical custody, the permanent caregiver must apply to be the payee of those benefits on the child's behalf.
 - The monthly amount of the other benefits must be considered an offset to the amount of the payment the child is determined eligible for under Northstar Care for Children.
- (3) If a child becomes eligible for benefits, after the initial amount of the payment under Northstar Care for Children is finalized, the permanent caregiver must contact DHS to redetermine the payment under Northstar Care for Children;
- The monthly amount of the other benefits must be considered an offset to the amount of the payment the child is determined eligible for under Northstar Care for Children.
- (4) If a child ceases to be eligible for RSDI, veteran's benefits, railroad retirement benefits, or black lung benefits after the initial amount of the payment under Northstar Care for Children is finalized, the permanent caregiver must contact DHS to redetermine the payment under Northstar Care for Children.
- The monthly amount of the payment under Northstar Care for Children must be the amount the child was determined to be eligible for prior to consideration of any offset.
- (5) If the monthly payment received on behalf of the child under RSDI, veteran's benefits, railroad retirement benefits, or black lung benefits changes after the adoption assistance or guardianship assistance agreement is finalized, the permanent caregiver must notify DHS as to the new monthly payment amount, regardless of the amount of the change in payment.
- If the monthly payment changes by \$75 or more, even if the change occurs incrementally over the duration of the term of the adoption assistance or guardianship assistance agreement, the monthly payment under Northstar Care for Children must be adjusted without further consent to reflect the amount of the increase or decrease in the offset amount.
 - Any subsequent change to the payment must be reported and handled in the same manner.
 - A change of monthly payments of less than \$75 is not a permissible reason to renegotiate the adoption assistance or guardianship assistance agreement. (*See Section 12, subd. 3 – renegotiations*)
 - DHS must review and revise the limit at which the adoption assistance or guardian assistance agreement must be renegotiated in accordance with the provisions for annual rate revisions.

8. *Rights and Duties of Providers and Caregivers (including payments):*

a. Rights of Caregivers:

- (1) Caregivers under Northstar Care must be paid monthly;
 - For adoption assistance and guardianship assistance cases, payment must only be made to the parent or relative custodian specified on the agreement.
 - If more than one person is listed, both will be listed as the payee
 - Unless otherwise specified in writing according to DHS policies
 - In the event of divorce or separation of the caregivers, a change of payee must be made in writing according to policies outlined by DHS.
 - If both caregivers are in agreement as to the change, it may be made according to a process outlined by DHS.
 - If there is not agreement as to the change, a court order indicating the party who is to receive the payment is needed before a change can be processed.
 - If the change of payee is disputed, DHS may withhold the payment until agreement is reached.
 - A noncustodial caregiver may request notice in writing of review, modification, or termination of the adoption assistance or guardianship assistance agreement.
 - In the event of the death of a payee, a change of payee consistent may be made in writing according to policies outlined by DHS. *(See Sections 9 and 10 for requirements for Guardianship and Adoption Assistance).*
 - Caregivers must also be given 15 days written notice from the financially responsible agency upon completion of an assessment or reassessment.
- (2) Foster care parents must be paid directly by the financially responsible agency unless:
 - The legally responsible agency is a different agency and is paid by the financially responsible agency (in that case, the legally responsible agency pays the foster parent); or
 - A licensed child-placing agency is receiving the direct payments (in that case, the agency pays the foster parent).
 - Caregivers and foster parents have the right to access transaction records for payments made first to another agency.
 - Right to Notices - Caregivers
 - The agency that issues the maintenance payment shall provide the child's caregiver with written notice of termination of payment.
 - Termination notices must be sent at least 15 days before the final payment or, in the case of an unplanned termination, the notice is sent within three days of the end of the payment.

- The written notice must minimally include the following:
 - (1) the date payment will end; (2) the reason payments will end and the event that is the basis to terminate payment;
 - (3) a statement that the provider has a right to a fair hearing review by the department consistent with Minn. Stat. § 256.045, subd. 3; (4) the procedure to request a fair hearing; and (5) the name, telephone number, and e-mail address of a contact person at the agency.

b. Caregiver Responsibilities – Adoption or Guardianship Assistance

- (1) Caregivers must keep the agency administering the program informed of changes in status or circumstances which would make the child ineligible for the payments or eligible for payments in a different amount.
- (2) For the duration of the agreement, the caregiver agrees to notify the agency administering the program in writing within 30 days of any of the following:
 - a change in the child’s or caregiver’s legal name;
 - a change in the family’s address;
 - a change in the child's legal custody status;
 - the child's completion of high school, if this occurs after the child attains age 18;
 - the end of the caregiver's legal responsibility to support the child based on termination of parental rights of the caregiver, transfer of guardianship to another person, or transfer of permanent legal and physical custody to another person;
 - the end of the caregiver's financial support of the child;
 - the death of the child;
 - the death of the caregiver; the child enlists in the military;
 - the child gets married;
 - the child becomes an emancipated minor through legal action;
 - the caregiver separates or divorces; and
 - the child is residing outside the caregiver's home for a period of more than 30 consecutive days.
- (3) Caregivers must be investigated for fraud if:
 - The caregiver reports information the caregiver knows is untrue;
 - The caregiver fails to notify the commissioner of changes that may affect eligibility; or
 - The agency administering the program receives relevant information that the caregiver did not report.

9. *Payments under Northstar – impact on other benefit programs*

- a. Payments received under Section 13 must not be considered as income for child care assistance (*see Minnesota Statutes, Chapter 119B*) or any other financial benefit.
- b. Consistent with Minn. Stat. § 256J.24, a child receiving a maintenance payment under Northstar Care for Children is excluded from any MFIP assistance unit.

10. Home and Community Based Waivers

- a. A child in foster care may qualify for home and community-based waived services, consistent with Minn. Stat. § 256B.092 for developmental disabilities, or Minn. Stat. § 256B.49 for community alternative care, community alternatives for disabled individuals, or traumatic brain injury waivers.
- b. A waiver service must not be substituted for the foster care program.
- c. When the child is simultaneously eligible for waived services and benefits under Northstar Care for Children, the financially responsible agency must assess and provide basic and supplemental difficulty of care rates as determined by the assessment.
- d. If it is determined that additional services are needed to meet the child's needs in the home that is not or cannot be met by the foster care program, the need would be referred to the local waived service program.
 - (1) In summary, if the child is eligible for both waived services and Northstar benefits, the agency provides payment rates as needed. If additional services are needed to meet needs that aren't met by the foster care program, those are referred to the local waived service program.

11. Overpayments

- a. DHS has the authority to collect any amount of foster care payment, adoption assistance, or guardianship assistance paid to a caregiver in excess of the payment due.
- b. Payments covered include basic maintenance needs payments, supplemental difficulty of care payments, and reimbursement of home and vehicle modifications under subdivision 10;
- c. Prior to any collection, DHS shall notify the caregiver in writing, including:
 - (1) the amount of the overpayment and an explanation of the cause of overpayment;
 - (2) clarification of the corrected amount;
 - (3) a statement of the legal authority for the decision;
 - (4) information about how the caregiver can correct the overpayment;
 - (5) if repayment is required, when the payment is due and a person to contact to review a repayment plan;
 - (6) a statement that the caregiver has a right to a fair hearing review by the department; and
 - (7) the procedure for seeking a fair hearing review by the department.

J. Federal, State and Local Share of Payment/Reimbursement

(Section 15)

1. Federal:
 - a. The financially responsible agency must use the federal IV-E eligibility criteria (*see 42 U.S.C. § 673*) to determine a child's eligibility for federal reimbursement – including guardianship assistance and adoption assistance payments. Any reimbursements from federal funds must be made to the agency making payments.
2. State:
 - a. Pays a percentage of the cost after federal IV-E reimbursement; and
 - b. Pays an identical percentage share for the Pre-Northstar foster care, adoption assistance and guardianship assistance program costs.
 - (1) These are the state's proportion of the "nonfederal share" that is split with the local agency (typically the county).
 - (2) The formula for determining the nonfederal share percentages is set forth in Section 15, Subd. 4(b).
 - c. Pays the entire non-federal share (pays the state and local share) in cases of federally-required adoption assistance, but there is no financially responsible agency (this is for children assessed with "extraordinary levels" above the existing difficulty of care levels. (*See Section 11, subd. 4*))
3. Local:
 - a. Pays the remaining share of cost reimbursement after federal and state payments (i.e. what is left of the "nonfederal share"); and
 - b. Pays the entire cost of:
 - (1) Initial clothing allowances;
 - (2) Payments to child caring agencies (as defined in Minn. Stat. §317A.907) or other agencies providing support services authorized by the local agency.
4. Nonfederal Share – Indian Children
 - a. For Indian Children
 - (1) Eligible under Title IV-E (*See 42 U.S.C. §673(b)*);
 - (2) Being placed in Minnesota; and
 - (3) Eligible for Adoption Assistance or Guardianship Assistance;
 - b. The agency or entity assuming responsibility for the child is responsible for the entire non-federal share (what is not reimbursed through Title IV-E reimbursement payments).

K. Northstar Care Program Administration and Appeals

(Section 15)

1. *Responsibilities - Administration of Program*

a. Financially Responsible Agency:

- (1) Determine a child's eligibility for Northstar Care foster care.
- (2) Determine a child's eligibility for IV-E foster care funds. (This assumes the agency has authority under the state's IV-E state plan.)
- (3) Prepare eligibility determinations for DHS review for a child's eligibility for Northstar Care Guardianship Assistance or Northstar Care Adoption Assistance.

Note: The AFDC relatedness determination, when required for IV-E funding, can only be completed by an agency authorized by DHS.

- (4) Administering Northstar Care for children in foster care.
- (5) Assisting and consulting with DHS, as designated by DHS, in administering Northstar Care for children receiving guardianship assistance or adoption assistance. This can include conducting assessments, reassessments, and negotiating agreements, or other activities requested by DHS.

b. DHS:

- (1) Specify procedures, requirements and deadlines for the administration of all Northstar Care programs and for children who transition from Pre-Northstar Foster Care Program to Northstar Care.
- (2) Periodically review:
 - General procedures, requirements, and deadlines for program administration, and
 - Assessment tools and procedures;
 - Review must include consultation with counties, tribes and representatives for caregivers;
 - DHS has authority to make alterations as needed.
- (3) Specify required county fiscal and statistical reports. (*See Minn. Stat. § 256.01, subd. 2(q)*)
- (4) Promote the Guardianship Assistance and Adoption Assistance programs.

- (5) Informing prospective parents of children under the commissioner's guardian ship of available adoption tax credits. (This is likely also a county responsibility.)
- (6) Operating programs funded by Title IV-E in accordance with federal statutes, rules and policies.

Note: While the statute doesn't specifically assign this to DHS, in reality, DHS is ultimately responsible for the IV-E state plan approved at the federal level. However, in the broader sense, it is likely a DHS and local agency responsibility.

- (7) Reimbursing counties for specified costs and service agreements. (See Minn. Stat. § 259A.75)

2. Appeals and Fair Hearing Process

a. All Caregivers:

- (1) Right to DHS appeal (see Minn. Stat. § 256.045) for:

- Denial of Northstar Care eligibility; or
- Modification or terminations of payments or agreements.

b. Relative Custodians and Adoptive Parents:

- (1) Right to DHS appeal (see Minn. Stat. § 256.045) upon:

- DHS modification of a guardianship or adoption assistance agreement;
- DHS denies application for guardianship or adoption assistance.

- (2) DHS Review – may be requested by relative custodian or adoptive parent before transfer of permanent legal and physical custody or finalization of adoption. (The Appeal process is set forth in Minn. Stat. § 256.045.)

- (3) Fair Hearings – Extenuating circumstances

- Generally:

- If a case is in the DHS review or appeal process, there is not a signed guardianship or adoption assistance agreement; and
- A signed agreement must be in effect prior to a court order transferring custody or finalizing an adoption.

- However, if there are “extenuating circumstances” permanency (i.e. transfer of custody or adoption) may be finalized by the court without a signed, effective agreement.

- Caregivers may request a fair hearing in the DHS appeal process to establish extenuating circumstances exist.

- At hearing, the caregiver has the burden to establish that extenuating circumstances exist.

- Examples of extenuating circumstances include:
 - Relevant facts regarding the child were known by the placing agency and not presented to the caregivers before transfer of permanent legal and physical custody or finalization of the adoption; or
 - Failure by the commissioner or a designee to advise potential caregivers about the availability of guardianship assistance or adoption assistance for children in the state foster care system.

- The effective date of an agreement and any associated federal financial participation are retroactive to the date of the Fair Hearing request if the appeals judge (fair hearings process) finds both:
 - Extenuating circumstances existed; and
 - The child met all eligibility criteria at the time that custody was transferred or the adoption finalized.

III. Provisions Applicable to both Pre-Northstar and Northstar Care in 2015

(Sections 21-22 – Effective January 1, 2015)

A. Payments for Foster Care Residential Placements

(Section 21)

For children placed in foster care group residential settings (*see Minn. Rules parts 2960.0020 – 2960.0710*) foster care maintenance payments must be made to cover the cost of providing the child's:

- a. Food;
- b. Clothing;
- c. Shelter;
- d. Daily supervision, which includes:
 - (1) Routine day-to-day direction
 - (2) Arrangements to ensure the child's safety and well-being; and
 - (3) May also include reasonable administration and facility operation costs;
- e. School supplies;
- f. Personal incidentals/supports;
- g. Reasonable visitation travel expenses;
- h. Transportation needs associated with the other costs listed.

B. Initial Clothing Allowance

(Section 22)

1. An initial clothing allowance must be available to children in
 - a. Pre-Northstar Care Programs;
 - b. Northstar Care Programs; and
 - c. Foster child group residential setting
 - (1) Where setting based on the child's individual needs during the first 60 days of the child's initial placement.
 - d. The agency must consider the parent's ability to provide for a child's clothing needs and the residential facility contracts.
2. Clothing allowance is approved by either:
 - a. County of financial responsibility (*see Minn. Stat. §256G.02*); or
 - b. Tribal agency authorized under section 256.01, subdivision 14b.
3. Amount must:
 - a. Be consistent with the child's needs; and
 - b. Not exceed the Northstar Care monthly basic rate for the child's age group. (*See Section 13, subd. 3*)

IV. Repealers

Sections 23 -24

Effective January 1, 2015

- A. The following statutes and rule provisions are repealed:
1. Minn. Stat. § 256.82, subd. 4 – Existing rulemaking authority regarding foster care payments;
 2. Minn. Stat. § 260C.441 – Child Protection Costs and Payments
 3. Minnesota Rules, part 9560.0650, subparts 1, 3, and 6;
 - a. Subpart 1 – Foster Care - Basic Payment schedule;
 - b. Subpart 3 – Foster Care – Agency Contract Care payments;
 - c. Subpart 6 – Foster Care – Reassessments;
 4. Minnesota Rules, part 9560.0651 – Foster Care – Difficulty of Care Assessments and Payments; and
 5. Minnesota Rules, part 9560.0655 – Foster Care – Difficulty of Care Payment Rate.

LANDLORD-TENANT LAW

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I. NOTICE TO TENANTS THAT PROPERTY IS IN FORECLOSURE

Chapter 100, Section 1 (HF 829)

Adds Minn. Stat. § 504B.151, subd. 1(d)

Effective August 1, 2013

Imposes liability of \$500 on a landlord for the failure to comply with the obligation to disclose to a prospective tenant that the property is in foreclosure or the contract for deed is subject to cancellation, as provided under Minn. Stat. § 504B.151, subd. 1(b). Clarifies that the imposition of the penalty is in addition to and does not limit any other rights available to a tenant.

II. RENT ESCROW ACTIONS WHEN RENT NOT DUE

Chapter 100, Section 5 (HF 829)

Adds Minn. Stat. § 504B.385, subd. 5

Effective August 1, 2013

Clarifies that: (1) a hearing on a rent escrow action must be held as required under the statute even if the tenant is not required to deposit rent with the court administrator; and (2) the tenant must still pay rent due after the filing of the rent escrow action but before the hearing is held.

III. RIGHT OF TENANTS TO POSSESSION AFTER EXPIRATION OF REDEMPTION PERIOD

Chapter 100, Sections 2, 3, and 6 (HF 829)

Amends Minn. Stat. § 504B.285, subds. 1a and 1b

Repeals Minn. Stat. § 504B.285, subd. 1c

Effective August 1, 2013

Makes permanent the right of a tenant to possession in a foreclosed property following the expiration of the redemption period for the latter of 90 days or the term of the lease.

Note: This right of possession was scheduled to expire December 31, 2014 and Minnesota law was to revert to the provisions governing holdovers that were in effect prior to August 1, 2010, when the provisions of the Federal Renter Protection Act providing the rights now made permanent were first codified in Minnesota statute.

IV. TIME TO APPEAL A HOUSING COURT DECISION

Chapter 100, Section 4 (HF 829)

Adds Minn. Stat. § 504B.371, subd. 2

Effective August 1, 2013

Extends from 10 to 15 days the time within which an appeal of a housing court determination must be filed.

PUBLIC BENEFITS LAW

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Acronyms Used in this Section

DHS = Minnesota Department of Human Services

FPG = Federal Poverty Guidelines

MFIP = Minnesota Family Investment Program

MHFA = Minnesota Housing Finance Agency

TANF = Temporary Assistance for Needy Families

I. INCOME AND ASSET EXCLUSION FOR DEMONSTRATION PROJECT

Chapter 108, Article 3, Section 44 (HF 1233)

Uncodified Section

Effective August 1, 2013

Note: This section is directed at the so-called the Family Independence Demonstration Program, a Citizens League initiative in the design phase, that seeks to incent through modest stipends to participants low-income families to save for self-directed goals that build personal and financial assets.

A. Absolute Exclusions

1. DHS Programs

Directs DHS to exclude conditional cash transfers made to families participating in a family independence demonstration when determining or redetermining eligibility for: (1) the Child Care Assistance Program; (2) General Assistance; (3) Group Residential Housing; (4) the Minnesota Family Investment Program; (5) the Work Benefit Program; and (6) the Diversionary Work Program.

2. MHFA Program

Directs MHFA to exclude conditional cash transfers made to families participating in a family independence demonstration when determining or redetermining eligibility for rental assistance.

B. Qualified Exclusion

Directs DHS to exclude these cash transfers for determining or redetermining eligibility for Medical Assistance or MinnesotaCare, except for enrollees subject to a modified adjusted gross income calculation to determine eligibility, in which case the payments are as income if: (1) they are included on the enrollee's federal tax return as income; or (2) the payments can be taken into account in the month of receipt as a lump sum payment

II. COUNTY PERFORMANCE FUNDS

Chapter 108, Article 3, Section 31 (HF 1233)

Amends Minn. Stat. § 256J.26, subd. 7

Effective January 1, 2016

Restores county and tribal MFIP performance funds to 100% (from 95%) of the county and tribal allocations. Clarifies that a county or tribe may lose 2.5% of its performance funds if it fails to meet expectations for two consecutive years.

III. MFIP

Chapter 108, Article 3, Sections 24 - 32, 42, and 46; and Article 14, Section 2, Subdivision 6(a) (HF 1233)

Amends Minn. Stat. § 256J.08 subd. 24; 256J.21 subds.2 and 3; 256J.24, subds. 5, 7; 256J.35; 256J.621; and 256J.78

Repeals Minn. Stat. §256J.24, subd. 6

Various Effective Dates

A. Appropriations

Appropriates:

1. \$2,168,000 each year in fiscal years 2015 and 2016 to paid work experience for MFIP participants;
2. \$250,000 each year in fiscal years 2015 and 2016 for work study jobs for MFIP participants;
3. \$2,000,000 each year in fiscal years 2015 and 2016 to local projects focused on reducing disparities in employment outcomes for communities of color;
4. \$200,000 each year in fiscal years 2014 and 2015 to support local collaborations providing home visiting services to MFIP teen parents; and
5. \$1,500,000 each year in fiscal years 2015 and 2016 in bonus funds to counties that exceed their expected range of performance on the MFIP self-support index.

B. Program Changes

1. Family Cap

Repeals the MFIP family cap. Reinstates cash assistance to children born to mothers receiving MFIP.

Repeals Minn. Stat. §256J.24, subd. 6

Amends Minn. Stat. § 256J.24 subd. 5

Effective January 1, 2015

Note: The repeal is not retroactive.

2. Family Wage Level

Effectively increases the initial income test for eligibility by requiring MFIP countable income to be below the "family wage level" rather than below the "transitional standard of assistance."

Amends Minn. Stat. §§ 256J.21 subd. 3; and 256J.24, subd. 7

Effective October 1, 2014 or upon approval from the US Dept. of Agriculture

3. Housing Assistance Grant

Creates a \$110 monthly MFIP housing assistance grant for MFIP participants who do not receive HUD housing subsidies. Requires the program to be forecasted. Provides that child-only cases are ineligible for the grant. Excludes housing assistance grant income for purposes of establishing "family income" for initial MFIP eligibility.

Amends Minn. Stat. §§ 256J.21, subd. 2; and 256J.35

Effective July 1, 2015

4. Income Disregard

Increases the MFIP income disregard to 50% of gross earned income, effectively increasing the MFIP exit level from 115% to 140% FPG.

Amends Minn. Stat. § 256J.08 subd. 24

Effective October 1, 2014

5. EBT Subsidies to Retailers

Prohibits DHS from subsidizing retailers for SNAP EBT transactions.

Amends Minn. Session Laws 1998, Chapter 407, Article 6, section 116

Effective 30 day after the DHS notifies retailers of the termination of their agreement with the State

6. Work Participation Cash Benefit

Indefinitely suspends the MFIP \$25 monthly work participation cash bonus. Authorizes the DHS to reinstate the bonus if the State does not meet the federal TANF work participation rate and receives notice of penalty. Requires DHS to notify the Legislature of any pending federal TANF penalties within 30 days of notification.

Amends Minn. Stat. § 256J.621

Effective December 1, 2014

C. TANF Waiver

Authorizes the DHS to pursue TANF demonstration projects or waivers of federal TANF requirements enabling MFIP to better serve the needs of Minnesota families. Describes the purpose as: (1) replacing federal TANF process measures with state-developed outcome measures that track adult employment and exits from cash assistance; (2) simplifying programmatic and administrative requirements; and (3) making other policy changes that improve participant outcomes. Requires a report to the Legislature by March 1, 2014 regarding the progress of the waiver or demonstration project.

Adds Minn. Stat. § 256J.78

Effective July 1, 2013

RACIAL AND ETHNIC DISPARITIES

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I. CULTURAL AND ETHNIC COMMUNITIES LEADERSHIP COUNCIL

Chapter 107, Article 2, Sections 1 - 12 (HF 975)

Uncodified Language

Effective August 1, 2013

Sunsets March 15, 2015

A. Purpose

Creates a Cultural and Ethnic Communities Leadership Council within the Department of Human Services (DHS) for the purpose of advising the DHS Commissioner on reducing disparities impacting racial and ethnic groups.

B. Guidelines

Directs DHS to develop guidelines: (1) defining the membership of the council; (2) setting out definitions; and (3) developing duties of DHS and the Council regarding racial and ethnic disparities reduction. Requires DHS, in developing the guidelines and selecting council members, to consult with: (1) counties; (2) tribes; (3) ethnic and cultural communities; and (4) diverse program participants and parent representatives.

C. Membership

1. Chair

Grants the DHS Commissioner sole authority to appoint the Chair.

2. Composition

Establishes membership to include: (1) the Chairs of the House and Senate Human Services Committees; (2) ranking minority members of the Human Services Committees; and (3) not less than 15 nor more than 25 members selected by the DHS Commissioner. Requires membership to include representation from: (1) racial and ethnic groups; (2) tribal service providers; (3) culturally and linguistically specific providers and advocacy groups; (4) DHS program participants; (5) public and private institutions; (6) parents of DHS program

participants; (7) the faith community; (7) DHS employees; and (8) other groups DHS deems necessary to facilitate the goals and duties of the Council.

3. Timing of Appointment

Requires at least 15 members to be appointed by September 15, 2013 and the remaining members by November 15, 2013.

Note: November 15, 2013 is the date established under the new law as deadline by which the Council's must hold its first meeting.

4. Terms

Provides that: (1) the first seven members appointed serve only until January 15, 2015; and (2) the other members serve one-year terms, with the possibility of an additional year extension.

D. Duties

Sets forth the Council's duties, which are, among other things, to: (1) recommend which current policies foster disparities and thus should be reviewed; (2) engage diverse populations in DHS programs to identify disparities issues; (3) raise awareness regarding disparities with the Legislature and media; (4) provide technical assistance, training, and outreach in developing statewide linguistically and culturally appropriate, accessible, and cost-effective DHS policies and services; (5) facilitate culturally appropriate and sensitive admissions, services, discharges, and utilization reviews for human services agencies and institutions; and (6) form work groups to carry out the duties.

E. Report to the Legislature

Requires DHS to report to the Legislature by February 15, 2014, and annually thereafter: (1) summarizing the activities of the council; (2) identifying the major problems and issues confronting racial and ethnic groups in accessing human services; (3) making recommendations to address issues; and (4) listing the specific objectives that the council seeks to attain during the subsequent biennium. Requires the report to contain: (1) a list of programs, groups, and grants used to reduce disparities; and (2) statistically valid reports of outcomes on the reduction of the disparities.

TAX LAW

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I. APPEALS OF DEPARTMENT OF REVENUE ORDERS

Chapter 36, Section 1 (HF 9)

Adds Minn. Stat. § 271.06, subd. 2a

Effective for filings delivered by the United States Postal Service with a postmark date after August 1, 2013

Chapter 142, Article 13, Section 8 (HF 677)

Amends Minn. Stat. § 271.06, subd. 2a, as added by 2013 Minn. Laws, Chapter 36, Section 1

Effective for filings delivered by the United States Postal Service with a postmark date after August 1, 2013.

Provides that if an appeal to the Tax Court of a Minnesota Department of Revenue order is delivered by mail, then only the date on a United States Postal Service postmark serves as proof of timely filing. Provides that the postmark date is filing date. Disqualifies as proof a date stamp of a private postage meter.

II. RENTERS' CREDIT

Chapter 143, Article 1, Section 3 (HF 677)

Amends Minn. Stat. § 290A.04, subd. 2a

Effective for claims based on rent paid in 2013 and following years

Increases the appropriation for Renters' Credit by \$15.5 million in fiscal year 2015, providing a larger credit to about 79,000 households currently eligible and making about 30,000 more households eligible.

Note: *Approximately 364,000 households are expected to receive the credit in fiscal year 2015.*

UNEMPLOYMENT INSURANCE (UI) LAW

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I. LOCKOUTS

Chapter 85, Article 4, Section 5 (HF 729)

Amends Minn. Stat. § 268.125 subd. 1

Effective July 1, 2013

Makes up to 26 weeks of additional unemployment benefits available to employees who stop working as a result of a lockout. Requires employees to exhaust regular benefits and be ineligible for extended state or federal unemployment benefits to access benefits under this section.

UNIFORM PROBATE CODE

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I. MINNESOTA MULTIPARTY ACCOUNTS ACT (UNIFORM PROBATE CODE)

Chapter 36 (HF 19)

Amends Minn. Stat. §§ 524.6-201, subd. 7; 524.6-203; 524.6-204; and 524.6- 211

Adds Minn. Stat. §§ 524.6-201, subd. 2a; 524.213, subds. 3 and 4; 524.6-215; and 524.6-216

Effective August 1, 2013

A. New and Amended Definitions

1. Agent

Defines "agent" a person authorized to make account transactions for a party.

Adds Minn. Stat. § 524.6-201, subd. 2a

2. Party

Amends the definition of "party" to exclude an agent.

Amends Minn. Stat. §§ 524.6-201, subd. 7

Note: A party is defined as person having present right to payment from a multiple-party account.

B. Agency Designation

Authorizes the parties to a multiparty account to designate an agent if the designation: (1) is in a writing; and (2) signed by all parties to the account. Provides that, unless otherwise stated, the agent's authority survives disability and incapacity and continues until terminated by: (1) the party; (2) an attorney-in-fact; (3) a conservator; or (4) the death of the sole or last surviving party.

Adds Minn. Stat. § 524.6-215(a)-(c)

C. Agent's Interest in Account

Provides that an agent has no beneficial right to sums on deposit.

Amends Minn. Stat. § 524.6-203

D. Statutory Form

Creates statutory form for uniform single and multiparty accounts. Provides that, if the form is not used, the Minnesota Multiparty Accounts Act apply to the type of account that most nearly conforms to the depositor's intent.

Adds Minn. Stat. § 524.6-213, subd. 3 (statutory form)

Adds Minn. Stat. § 524.6-213, subd. 4 (where statutory form not used)

E. Indemnity of Financial Institutions

1. Right Not to Make Payment

Gives a financial institution the right, without liability, to refuse to make payments if the financial institution: (1) receives proper notice to withhold payments is received; or (2) has reason to believe that a dispute exists as to the rights of the parties.

Amends Minn. Stat. § 524.6-211

2. Liability if Improper Payments Made

Relieves a financial institution of liability for multiparty account transactions requested by an agent if: (1) the financial institution has no actual notice of either the agent's termination or the death of the sole party or last surviving party prior to completing the transaction; or (2) the agent's authority does not survive the disability or incapacity of all the parties, and the financial institution no actual notice of the disability or incapacity.

Adds Minn. Stat. § 524.6-215(d)

VULNERABLE ADULTS

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I. COMPLAINTS BY VULNERABLE ADULTS AGAINST HMOs and NURSING HOMES

Chapter 43, Sections 2 and 17 (SF 887)

Amends Minn. Stat. §§ 62Q.106; and 144A.53, subd. 2

Effective August 1, 2013

A. Health Maintenance Organizations (HMOs)

Directs the Department of Health (MDH) - when investigating a complaint filed against a health maintenance organization (HMO) regarding a vulnerable adult -- to interview at least one family member of the complainant or the subject vulnerable adult. Requires MDH to note in the file if the complainant or subject does not want any family members to be interviewed.

Amends Minn. Stat. §§ 62Q.106

B. Nursing Homes

Requires Investigators - when investigating a complaint filed with the Minnesota Office of Health Facility Complaints against a nursing home regarding a vulnerable adult - to interview at least one family member of the subject vulnerable adult. Requires a note be made in the file if the vulnerable adult is directing his/her own care and does not want the investigator to contact the family.

Requires that complainants receive copy of the completed report.

Amends Minn. Stat. §§ 144A.53, subd. 2

II. FINANCIAL EXPLOITATION

Chapter 5 (HF 90)

Adds Minn. Stat. § 609.2335, subds. 4 and 5

Various Effective Dates

A. Aggregation

Permits the aggregation of the value of money or property or services received by a defendant within any six-month period. Allows the defendant to be prosecuted in any county in which an offense was committed, if offenses were committed in more than one county.

Note: This provision then permits the penalty to be imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both, as provided under Minn. Stat. § 609.2335, subd. 3.

Adds Minn. Stat. § 609.2335, subd. 4

Effective August 1, 2013, and applies to crimes committed on or after that date.

B. Venue

Provides that, notwithstanding Minn. Stat. § 627.01, an offense committed governed by the new provisions may be prosecuted in: (1) the county where any part of the offense occurred; or (2) the county of residence of the victim or one of the victims.

Adds Minn. Stat. § 609.2335, subd. 5

Effective August 1, 2013

III. POWER OF ATTORNEY

Chapter 23 (HF 232)

Amends Minn. Stat. §§ 523.20; 523.23, subd. 1; and 523.24, subds. 8 and 14

Adds Minn. Stat. §§ 523.23, subd. 6; and 523.25

Various Effective Dates

A. Statutory Short Form

Modifies the statutory short form by: (1) clarifying that the form governs financial matters but does not give the attorney-in-fact power over the principal's health care decisions; (2) defaulting to a prohibition on self-gifting; (3) providing clear options on limiting self-gifting; (4) requiring affirmative notation for granting any self-gifting power; and (5) requiring a signed acknowledgment that the understands and accepts the scope and limitations of the powers granted.

Amends Minn. Stat. § 523.23, subd. 1

Effective January 1, 2014, and applies to powers of attorney executed on or after that date

B. Notices

1. To Principal

Deletes existing notice to principal at the beginning of the existing statutory short form.

Substitutes a separate and expanded notice to - and which must be initialed by -- the principal indicating, among other things: (1) that the powers granted do not extend to health care decisions; (2) that the attorney-in-fact must keep complete records; (3) that the principal has the right to demand an accounting; (4) that the attorney-in-fact is personally liable for injury to the principal as a result of actions taken in bad faith; (5) how the power of attorney may be revoked; and (6) that the attorney-in-fact must act with the principal's interest utmost in mind.

Amends Minn. Stat. § 523.23, subd. 1

Effective January 1, 2014, and applies to powers of attorney executed on or after that date

2. To Attorney-in-Fact

Adds separate and expanded notice to - and which must be initialed by - the attorney-in-fact indicating, among other things, that the attorney-in-fact: (1) must act with the interests of the principal utmost in mind; (2) must exercise the power in the same manner as an ordinarily prudent person of discretion and intelligence would exercise in the management of the person's own affairs; (3) must render an accounting upon request of the principal; and (4) is personally liable for injury to the principal as a result of bad faith acts.

Amends Minn. Stat. § 523.23, subd. 1

Effective January 1, 2014, and applies to powers of attorney executed on or after that date

C. Limitation on Powers

Clarifies that the powers conferred by the principal to the attorney-in-fact through the Statutory Short Form Power of Attorney do not extend to health care decisions.

Amends Minn. Stat. § 523.24, subd. 14

Effective August 1, 2013

D. Judicial Relief

Permits the principal or an interested person to petition the court for a protective order directing an attorney-in-fact to provide an accounting. Allows the court discretion to provide other relief as available under state law governing the protection of property of protected persons and guardianship and conservatorship under Minn. Stat. §§ 524.5-401 to 524.5-502. Entitles a prevailing plaintiff to recover attorney fees.

Adds Minn. Stat. § 523.26

Effective August 1, 2013 and is retroactive

E. Effect on Existing Powers of Attorney

Provides that the changes in the form or made by the new provisions do not invalidate or impair a power of attorney executed before January 1, 2014.

Adds Minn. Stat. § 523.23, subd. 6

Effective August 1, 2013